

# Customs Bulletin

Regulations, Rulings, Decisions, and Notices  
concerning Customs and related matters



## and Decisions

of the United States Court of Customs and  
Patent Appeals and the United States  
Court of International Trade

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No. 35

*This issue contains*

U.S. Customs Service

T.D. 82-146 through 82-148

Proposed Rulemaking

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THE DEPARTMENT OF THE TREASURY  
U.S. Customs Service

### NOTICE

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# U.S. Customs Service

## *Treasury Decisions*

(T.D. 82-146)

### Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: August 11, 1982.

Name of principal and surety	Date term commences	Date of approval	Filed with district director/area director/amount
Pacific Western Airlines, Ltd., 700 2nd St., SW, Calgary, Alberta, Canada; Safeco Ins. Co. of America (PB 8/8/79) D 8/7/82 <sup>1</sup>	Aug. 8, 1982	Aug. 8, 1982	Seattle, WA \$100,000

The foregoing principal has been designated as a carrier of bonded merchandise.

<sup>1</sup>Principal is Pacific Western Airlines, Ltd. and/or Transair and/or Midwest Airlines Ltd.; Surety is U.S. Fidelity and Guaranty Co.

BON-3-01

MARILYN G. MORRISON,  
*Director,*  
*Carriers, Drawback and Bonds Division.*

(T.D. 82-147)

### Instruments of International Traffic—Twist-lock Stackers Used To Secure Containers Designated as Instruments of International Traffic

Twist-lock stackers are used by steamship operators to secure containers to the deck of a vessel and to other stacked containers. They are used to align steamship containers vertically by either attaching them to the deck of a vessel or container to container. The stackers will remain with one steamship company and will be transferred from one vessel to another as needed.

The stackers enter all U.S. ports where containers are handled. Some stackers have part numbers; others have foundry marks. There are approximately one million twist-lock stackers in the market place; their life span varies from three to seven years depending upon construction.

To qualify as an "instrument of international traffic" under section 1322(a), title 19, United States Code, an article must be used as a container or holder, must be substantial, must be suitable for and capable of reuse, and must be used in significant numbers in international traffic.

Pursuant to Treasury Decision 68-296, container adapters called cell beams and cell spacers, which are rectangular steel frames on which 20-foot containers sit, used to adapt spaces or cells on vessels designed for holding 24-foot containers to hold 20-foot containers (by sliding down cell guides to position and with cone-like locking devices on top to fit into recesses on bottom of 20-foot containers) were designated as instruments of international traffic, which may be released under the procedures set forth in section 10.41a, Customs Regulations.

The function of these adapters is to give lateral stability to the 20-foot containers. The designation of the adapters as instruments of international traffic followed the example set by CIE 525/63 which designated inflatable dunnage units, used to brace cargoes in railroad cars to prevent shifting, as instruments of international traffic.

Pursuant to Treasury Decision 69-220, automotive frame spacers were designated as instruments of international traffic. These frame spacers are a shipping device used in conjunction with rail shipments of automobile and truck frames to hold automobile frames on railroad cars, keeping them from contact with each other, four spaces to a frame.

It has been established to the satisfaction of the U.S. Customs Service that twist-lock stackers are similar to the container adapters, the inflatable dunnage units and the automotive frame spacers in their function and that twist-lock stackers are substantial, suitable for and capable of repeated use and are used in significant numbers in international traffic.



Therefore, twist-lock stackers are instruments of international traffic and may be released under the procedures set forth in section 10.41a, Customs Regulations.

Dated: August 13, 1982.

MARILYN G. MORRISON,  
*Director,*  
*Carriers, Drawback & Bonds Division.*

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(19 CFR Parts 10, 12)

(T.D. 82-148)

Customs Regulations Amendments Relating to the Entry of Certain Antique Articles Under the Endangered Species Act Amendments of 1978

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends the Customs Regulations to implement the Endangered Species Act of 1978 by establishing procedures for the importation of certain antique articles (other than scrimshaw) which otherwise would be prohibited entry by the Endangered Species Act of 1973.

The amendments specify the antique articles which may be imported, the documentation required, and the ports at which the articles may be entered.

EFFECTIVE DATE: Sept. 22, 1982.

FOR FURTHER INFORMATION CONTACT: Harrison C. Feese, Entry, Examination and Liquidation Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-8651); or Special Agent Keith C. Frederick, U.S. Fish and Wildlife Service, Department of the Interior, 1375 K Street, NW., Washington, D.C. 20005 (202-343-9242).

SUPPLEMENTARY INFORMATION:

#### BACKGROUND

To implement the policy of Congress that all Federal departments and agencies should seek to conserve endangered and threatened species of fish, wildlife, or plants, the Secretary of the Interior under section 4 of the Endangered Species Act of 1973 (16 U.S.C. 1538) (the "1973 Act"), prescribed regulations in Part 17, Title 50, Code of Federal Regulations (50 CFR Part 17), which prohibit or restrict the importation into the United States of any endangered or threatened species listed in 50 CFR 17.11 or 17.12.

The Endangered Species Act Amendments of 1978 (Pub. L. 95-632, November 10, 1978, 16 U.S.C. 1531, *et seq.*) (the "1978 Act") amended the 1973 Act to permit the importation of certain antique articles (other than scrimshaw) which: (1) were made before 1830; (2) are composed in whole or in part of any endangered or threatened species listed in 50 CFR 17.11 or 17.12; (3) have not been repaired or modified with any part of any endangered or threatened species on or after December 28, 1973; and (4) are entered at a designated port. Scrimshaw is defined in a 1976 amendment to the 1973 Act as "any art form which involves the etching or engraving or designs upon, or the carving of figures, patterns, or designs from, any bone or tooth of any marine mammal of the order Cetacea." (Pub. L. 94-359, July 12, 1976, 16 U.S.C. 1539.)

Under section 5 of the 1978 Act, the Secretary of the Treasury, after consultation with the Secretary of the Interior, is authorized to establish by regulation the documentation necessary for the importation of certain antique articles and to designate a port or ports within each Customs region at which the articles shall be entered.

To implement the 1978 Act, by notice published in the Federal Register on November 9, 1981 (46 FR 55273), Customs proposed to amend Parts 10 and 12, Customs Regulations (19 CFR Parts 10, 12), to specify the antique articles which may be imported, the documentation required, and the ports at which the articles may be imported. Specifically, the notice proposed to add a new paragraph (g) to section 10.53, Customs Regulations (19 CFR 10.53), to specify the antique articles which may be imported under section 5 of the 1978 Act, and to require the importer of these articles to file a "Declaration for Importation or Exportation of Fish or Wildlife" (USFWS Form 3-177) at the designated port or ports of entry, with the district director of Customs, who will forward the form to the U.S. Fish and Wildlife Service (USFWS), Department of the Interior. The first sentence of section 10.53(d) would be changed to indicate that the procedure for assessing duty on repaired or renovated antique articles also applies to articles admitted under the new provision of section 10.53(g).

Section 10.53(e), Customs Regulations, would be revised to indicate that antique furniture admitted under new section 10.53(g) must be entered at one of the designated ports of entry.

It also was proposed to redesignate section 12.26(g), Customs Regulations (19 CFR 12.26(g)), as (g)(1), and to add a new paragraph (g)(2) to provide that any antique article imported under new section 10.53(g) shall be entered at one of the ports designated in each region for this purpose. For the convenience of importers and the agencies involved, in some regions more than one port would be designated. Entry of the antique articles would be permitted only at the following ports:

Boston, Massachusetts.

New York, New York.  
Philadelphia, Pennsylvania.  
Miami, Florida.  
San Juan, Puerto Rico.  
New Orleans, Louisiana.  
Houston, Texas.  
Los Angeles, California.  
San Francisco, California.  
Anchorage, Alaska.  
Honolulu, Hawaii.

O'Hare International Airport, Chicago, Illinois.

The designated ports of entry would be staffed with Customs officers qualified to identify antiques which may be admitted under the 1978 Act.

Conforming amendments also would be made to sections 12.26 and 12.29, Customs Regulations (19 CFR 12.26, 12.29), to change the name "Bureau of Sport Fisheries and Wildlife" to "U.S. Fish and Wildlife Service", wherever the former name appears in those sections.

#### DISCUSSION OF COMMENTS

Eight commenters responded to the notice. Seven requested that the port of Baltimore, Maryland, be added to the list of designated ports in section 12.26(g)(2), Customs Regulations, for the following reasons:

- (a) Baltimore has traditionally been designated as a port for the importation of antiques and still enjoys a thriving antique trade;
- (b) Baltimore is convenient to Washington, D.C., which also enjoys a brisk antique trade; and
- (c) Customs employees in Baltimore have the expertise necessary to examine and verify the antiquity of articles.

After a careful analysis of the comments received, and further consideration of the matter, Customs has concluded that it would be in the public interest to include Baltimore as a designated port of entry for these articles.

The only other commenter suggested that Customs designate the same ports for purposes of section 10.53, Customs Regulations, as are presently designated under 50 CFR Part 17, for the entry wildlife. The commenter believes that Customs officers, at the ports designated in the proposed rule, which are not Fish and Wildlife designated ports, will not be qualified to identify endangered or threatened species of wildlife.

The intent of the 1978 Act, and these regulations, is to provide for the entry of articles, produced before 1830, which would have been prohibited entry under the 1973 Act. Admissibility depends solely on the antiquity of the article. For that reason, Customs has selected ports with a large volume of antique imports, where the Customs staff has the necessary expertise to verify antiquity.

Accordingly, with the exception of adding the port of Baltimore, as discussed above, the amendments are adopted as proposed.

#### EXECUTIVE ORDER 12291

As indicated in the proposed rule, these amendments do not meet the criteria for a "major rule" as specified in section 1(b) E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

#### REGULATORY FLEXIBILITY ACT

It is certified under the provisions of section 3 of the Regulatory Flexibility Act (5 U.S.C. 605(b)) that this rule will not have a significant economic impact on a substantial number of small entities.

#### DRAFTING INFORMATION

The principal author of this document was Jesse V. Vitello, Regulations Control Branch, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

List of subjects in 19 CFR Parts 10 and 12.

Customs duties and inspection, imports, animals, wildlife, endangered and threatened wildlife.

#### AMENDMENTS TO THE REGULATIONS

Parts 10 and 12, Customs Regulations (19 CFR Parts 10, 12), are amended as set forth below.

ALFRED R. DE ANGELUS,  
*Acting Commissioner of Customs.*

Approved: July 30, 1982.

JOHN M. WALKER, JR.,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, August 23, 1982 (47 FR 36630)]

#### PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED RATE, ETC.

§ 10.53 is amended by changing the first sentence of paragraph (d), revising paragraph (e), and by adding a new paragraph (g), to read as follows:

§ 10.53 Antiques.

\* \* \* \* \*

(d) Antiques of the age prescribed by items 766.20 and 766.25, Tariff Schedules of the United States, or admitted under the provisions of paragraph (g) of this section, shall be admitted free of duty though repaired or renovated. \* \* \*

(e) Except for furniture admitted under the provisions of paragraph (g) of this section, furniture claimed to be free of duty under item 766.20 or 766.25 may be entered for consump-

tion at any port of entry within the customs territory of the United States.

(g)(1) Antique articles (other than scrimshaw) otherwise prohibited entry by the Endangered Species Act of 1973 (16 U.S.C. 1521, *et seq.*) may be entered if the article:

(i) Is composed in whole or in part of any endangered or threatened species listed in 50 CFR 17.11 or 17.12,

(ii) Was made before 1830,

(iii) Has not been repaired or modified with any part of any such endangered or threatened species, on or after December 28, 1973,

(iv) Is entered at a port designated in section 12.26 of this chapter.

(v) A "Declaration for Importation or Exportation of Fish or Wildlife" (USFWS Form 3-177) is filed at the time of entry with the district director of Customs who will forward the form to the U.S. Fish and Wildlife Service, and

(vi) The importer meets the requirements of paragraphs (a), (b), and (c) of this section.

(2) Scrimshaw is defined as an art form which involves the etching and engraving of designs upon, or the carving of figures, patters, or designs from, any bone or tooth of any marine mammal of the order Cetacea.

(R.S. 251, as amended, 77A Stat. 14, section 624, 46 Stat. 759, section 101, 76 Stat. 72, General Headnote 11, Tariff Schedules of the United States (19 U.S.C. 66, 1624, 1202); Pub. L. 93-205, Pub. L. 95-632 (16 U.S.C. 1531, *et seq.*)).

## PART 12—SPECIAL CLASSES OF MERCHANDISE

1. Paragraph (g) of § 12.26 is redesignated as (g)(1) and a new paragraph (g)(2) is added and the section heading thereto is revised to read as follows:

### Wild Animals, Birds, and Insects

§ 12.26 Importations of wild animals, fish, amphibians, reptiles, mollusks, and crustaceans; prohibited and endangered and threatened species; designated ports of entry; permits required.

(g)(2) Any antique article imported under § 10.53(g) of this chapter shall be entered at one of the following ports:

Boston, Massachusetts

New York, New York

Philadelphia, Pennsylvania

Baltimore, Maryland

Miami, Florida, San Juan, Puerto Rico

New Orleans, Louisiana

Houston, Texas

Los Angeles, California

San Francisco, California, Anchorage, Alaska, Honolulu, Hawaii

O'Hare International Airport, Chicago, Illinois

2. The name "Bureau of Sport Fisheries and Wildlife" is changed to "U.S. Fish and Wildlife Service", wherever the former name appears in sections 12.26 and 12.29.

(R.S. 251, as amended, 77A Stat. 14, section 624, 46 Stat. 759, section 101, 76 Stat. 72, General Headnote 11, Tariff Schedules of the United States (19 U.S.C. 66, 1624, 1202); Pub. L. 93-205, Pub. L. 95-632 (16 U.S.C. 1531, *et seq.*)).

# U.S. CUSTOMS SERVICE

## *Proposed Rulemaking*

(19 CFR Parts 22 and 191)

### DRAWBACK

Proposed Customs Regulations Revision of Part 22 Relating to  
Drawback

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Proposed revision.

SUMMARY: Drawback is a refund or remission, in whole or in part, of a customs duty, internal-revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty or tax was assessed or collected.

The rationale for drawback has always been to encourage American commerce or manufacturing, or both. It permits the American manufacturer to compete in foreign markets without the handicap of including in his costs, and consequently in his sales price, the duty paid on imported merchandise.

Two examples of drawback follow:

1. "A" imports Australian grease wool, and produces from it wool top which is sold in the United States. At a later date, "A" uses domestic grease wool of the same kind and quality to produce wool top and the wool top is exported. "A" can claim and receive drawback on the duty he paid on the Australian grease wool.

2. "B" imports semiconductors which he uses in manufacturing television sets. If the television sets are exported, "B" may claim and receive drawback on the duty paid on the semiconductors.

This proposed revision is part of the general revision of the Customs Regulations, and would amend Chapter I, title 19, Code of Federal Regulations (19 CFR Chapter I), by removing present Part 22 and adding a new Part 191.

Proposed Part 191 discusses the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. Proposed Part 191 follows a new format, and contains changes or additions in language to clarify the current provisions. Substantive changes have been made in proposed

Part 191. Some of the changes are new and some are based upon interpretative rulings. Significant proposed changes include:

1. Defining the primary terms used throughout the revision;
2. Removing the application procedure which precedes the filing of the drawback proposal and approval of a specific drawback contract;
3. Providing a sample drawback proposal to a prospective drawback claimant upon request.
4. Providing for the use of a general drawback contract prepared by Customs Headquarters and published in the Customs Bulletin for use by any manufacturer or producer desiring drawback who can comply with the conditions of the contract.
5. Removing the certified notice of exportation procedure (except for mail shipments) used to establish exportation of articles for drawback purposes.
6. Using the first-in-first-out (FIFO) accounting principle for identifying commingled fungible merchandise and products.
7. Discussing in a new subpart the subject of materials used for construction and equipment of vessels and aircraft built for foreign account and ownership.
8. Discussing in a new subpart the subject of same condition drawback.
9. Discussing in a new subpart the subject of distilled spirits, wines, or beer which is unmerchantable or does not conform to sample or specification.
10. Removing sections of the regulations relating to bags and meat wrappers, sugar and sirups, linseed oil, crude petroleum and petroleum derivatives, piece goods, and fur skins and fur skin articles.

Also included as part of the proposed revision are parallel reference tables showing the relationships of the proposed provisions of Part 191 to those presently set forth in Part 22.

**DATE:** Comments must be received on or before (90 days after the date of publication in the Federal Register).

**ADDRESS:** Written comments may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

**FOR FURTHER INFORMATION CONTACT:** George Steuart, Carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5856).

**SUPPLEMENTARY INFORMATION:**

#### BACKGROUND

Drawback is a refund or remission, in whole or in part of a customs duty, internal-revenue tax, or fee lawfully assessed or collect-



ed because of a particular use made of the merchandise on which the duty or tax was assessed or collected.

This proposed revision is part of the general revision of the Customs Regulations and would amend Chapter I, title 19, Code of Federal Regulations (19 CFR Chapter I), by removing present Part 22 and adding a new Part 191.

Proposed Part 191 would set forth the general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims. Part 191 would follow a new format, and contain changes or additions in language to clarify the current provisions. Substantive changes have been made in proposed Part 191.

Revised Part 191 would be divided into sixteen subparts. Following is a discussion of the major changes in each of these subparts.

#### SUBPART A—GENERAL PROVISIONS

1. Proposed section 191.1 is new and would set forth the general authority of the Commissioner of Customs to administer the drawback law and regulations.

2. Proposed section 191.2 is new and would set forth the definitions of the primary terms used throughout the revision. The defined terms are:

- a. Drawback.
- b. Designated merchandise.
- c. Drawback proposal.
- d. Drawback acceptance.
- e. Specific drawback contract.
- f. General drawback contract.
- g. Drawback product.
- h. Drawback entry.
- i. Drawback claim.
- j. Direct identification drawback.
- k. Substitution drawback.
- l. Fungible merchandise.
- m. Same kind and quality merchandise.
- n. Schedule.
- o. Verification.
- p. Abstract of manufacturing records.

3. Proposed section 191.4 would follow section 22.1 but present an expanded discussion of section 313, Tariff Act of 1930, as amended (19 U.S.C. 1313), in general language including "same condition drawback."

4. Proposed section 191.6(a) would clarify who are the proper parties authorized to sign drawback documents presently set forth in section 22.45.

5. Proposed section 191.6(b) would incorporate a change in terminology by introducing the term "proposal" in place of the term "statement" and by adding to the list of documents letters of inten-

tion to adhere to general drawback contracts and applications relating to same condition drawback.

6. Proposed section 191.8 is new. Paragraph (a) would incorporate the 5-year statutory requirement for exporting merchandise for which drawback is claimed pursuant to section 313(i), Tariff Act of 1930, as amended (19 U.S.C. 1313(i)). Paragraph (b) would incorporate the 3-year statutory requirement for exporting or destroying same condition drawback merchandise pursuant to section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)). Paragraph (c) would incorporate the 5-year statutory requirement for exporting merchandise in continuous Customs custody pursuant to section 557(a), 46 Stat. 744, as amended (19 U.S.C. 1557(a)).

7. Proposed section 191.9 would incorporate the substance of footnote 17 of Part 22 setting forth the criminal liability for falsifying a drawback claim.

8. Proposed section 191.10 would revise the substance of section 22.43 to provide for the liquidation of first claims under drawback entries and subsequent claims without the performance of first claim verifications of the drawback entry. In place of mandatory first claim verifications, drawback claimants would be subject to audit verifications. Also, the term "drawback contract" would be introduced in place of the term "drawback rate". A new paragraph 191.10(e) would be added to set forth the procedures applicable when verification discloses an error in a drawback proposal accepted by Customs Headquarters or a regional commissioner.

9. Proposed section 191.12 would set forth the requirement of section 313(l) Tariff Act of 1930, as amended (19 U.S.C. 1313(l)), presently located in footnote 1, letter "j" of section 22.1.

#### SUBPART B—SPECIFIC DRAWBACK CONTRACTS

General Statement. The entire application procedure in Part 22 which preceded the filing of the drawback proposal would be removed from Part 191. Under the revision, the drawback party would file the drawback proposal as the initial step, thus eliminating the need for Customs Form 4477. Therefore, section 22.3 would be removed in its entirety.

1. Proposed section 191.21(a) is new and would set forth the proper parties who may apply for a specific drawback contract. The phrase in that section "whether or not the owner of the merchandise" would take into consideration proposed section 191.34 relating to agents.

The phrase "exportation with the benefit of drawback" used here and throughout the revision would be changed to read "exportation with drawback." The words "the benefit of" would be removed as surplusage. The proposed section would provide a cross-reference to Subpart D relating to general drawback contracts.

2. Proposed section 191.21(a)(2) is new and would set forth the current Customs practices concerning the use of subcontractors

whose work on drawback merchandise does not constitute a manufacture or production, but does make it difficult to identify the merchandise.

3. Proposed sections 191.21 (b) and (d) would set forth the substance of section 22.4(h) but in a clear format. The last sentence of section 22.4(h) relating to applications would be removed from the revision. A provision has been added to proposed section 191.21(d) to provide for the submission of a proposal to Headquarters relating to section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)).

4. Proposed section 191.21(c) is new and would state that except for direct identification drawback, the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters would provide a sample drawback proposal to a prospective drawback applicant upon request. Sample proposals for direct identification drawback shall be provided by the regional commissioners upon request.

5. Proposed section 191.22(a) would set forth the general record requirements for direct identification and other non-substitution manufacturing drawback primarily located in section 22.4(a). However, proposed section 191.22(a)(5)(ii) is new and would set forth the existing practice for identifying the time of separation as the entire period covered by a claim when the operation results in two or more products and a claim covers a manufacturing period rather than a manufacturing lot. Manufacturing periods in excess of one month could not be used without specific approval of Customs.

6. Proposed section 191.22(b) would revise sections 22.4 (b) and (c) to indicate that records shall be stored in a manner which would enable Customs to verify drawback documentation.

7. Proposed section 191.22(c) would revise section 22.4(f). The present section provides an accounting technique for identifying commingled fungible merchandise and products. However, this provision is difficult to administer and is inconsistent with commercial accounting techniques. The revised section would introduce the first-in-first-out (FIFO) accounting principal for identifying these products.

8. Section 22.4(g), relating to a builder of a vessel or aircraft, would be removed on the basis that the substance is unnecessary to be included in the revision.

9. Proposed section 191.23(a) would provide that a drawback contract shall be approved by Customs Headquarters or the regional commissioner, as appropriate, for a period of 15 years from the date of approval.

10. Proposed sections 191.23(c) and (d) would revise sections 22.4(l) and (m) to reflect the discontinuance of the application procedure. Under the revision, drawback entries may be filed and the merchandise exported before the contract has been approved. However, no payment shall be made until the contract has been ap-

proved. This change is necessitated by the accelerated drawback procedure which permits payment of drawback before liquidation.

The revision would not continue the distinction between "issuing" a contract and "approving" a contract. Accordingly, only the term "approval" of a contract would be used throughout the revision.

The language in section 22.4(m) that drawback may be paid on articles "exported on or after the effective date" would be removed from the revision. Under the revision, although merchandise can be exported before the contract has been approved, no payment would be made until the contract has been approved. There would be no "effective date."

11. Although proposed section 191.24 relating to schedules and supplemental schedules would follow the substance of section 22.4(p), the revision would remove section 22.4(q) because "supplemental advisory schedules" are no longer required.

12. Proposed section 191.25 would revise section 22.4(o). Under the revision, a supplemental proposal to modify an existing contract may be prepared. If approved, the new drawback contract would be effective for a period of 15 years from the date of its approval and supersede the contract it modifies.

13. Proposed section 191.26 would revise section 22.4(r) to provide that a contract shall terminate 15 years after the date of approval unless renewed by the manufacturer or producer. A manufacturer or producer may terminate its contract at any time.

#### SUBPART C—USE OF SUBSTITUTED MERCHANDISE

1. Proposed section 191.32(a) would amend section 22.5(a) to reflect the current practice for maintaining records for substitution drawback.

2. Proposed section 191.32(c) would incorporate the substance of section 22.5(e).

3. Proposed section 191.33 is new and would discuss the existing practice in those cases where multiple products result from the manufacturing operation requiring distribution of drawback in accordance with their relative values.

4. Revised section 191.34 is new and would provide for the practice set forth in T.D. 55207(2) and T.D. 55207(1), relating to agency.

#### SUBPART D—GENERAL DRAWBACK CONTRACTS

This subpart is new and would incorporate into the Customs Regulations the practice of using general drawback contracts. A general drawback contract is designed to simplify drawback procedures for certain common manufacturing operations but does not preclude or limit the use of drawback proposals and specific drawback contracts.

Customs Headquarters would prepare and publish in the Customs Bulletin approved general drawback contracts in situations

where numerous manufacturers or producers have similar operations and wish to claim drawback. Any manufacturer or producer who can comply with the conditions of the published general drawback contract may adhere to it by notifying a regional commissioner in writing of the intention to do so and providing specified information. The regional commissioner shall acknowledge in writing receipt of the letter of adherence. The general drawback contract shall be for a period of 15 years, may be renewed, and may be terminated by the manufacturer or producer at any time. An example of an approved general drawback contract appears as T.D. 80-267 (Vol. 14 Customs Bulletin No. 47, November 19, 1980).

#### SUBPART E—EVIDENCE OF EXPORTATION

1. Proposed section 191.51 would retain the uncertified notice of exportation procedure and exporter's summary procedure for establishing a drawback claim in section 22.7(a) but would remove the certified notice of exportation procedure except for mail shipments. Additionally, two new paragraphs would be added to the revision relating to the Notice of Lading for supplies on certain vessels or aircraft and the Notice of Transfer for articles manufactured or produced in the United States and transferred to a foreign trade zone.

2. Proposed section 191.52(c) is similar in substance to section 22.7(c)(1) except that U.S. Customs documentation evidencing exportation may be submitted to support a notice of exportation. Also, evidence to support a notice of exportation would indicate the identity of the exporter in addition to the evidence presently required.

3. Proposed section 191.52(d) would follow the substance of section 22.7(c)(2) except that the word "consecutively" is used in the last sentence of the revision in place of the word "separately" in the last sentence of 22.7(c)(2). No change in substance is intended.

4. Proposed section 191.53(b) provides that the exporter-claimant shall make the request to use the exporter's summary procedure to the regional commissioner unless in cases of merchandise the subject of same condition drawback, the regional commissioner has delegated authority to approve requests to a district director. In that circumstance, the request is made to the district director.

5. Proposed section 191.53(c), would provide for use of an exporter's summary by an exporter-claimant if the regional commissioner, or the district director if applicable in the case of merchandise the subject of same condition drawback, concludes that its use would contribute to administrative efficiency and the exporter-claimant is not delinquent or otherwise remiss in his transactions with Customs.

6. Proposed section 191.53(d) would revise the bond requirement of section 22.7(d)(2)(ii) by requiring the amount of the bond to equal 25 percent of the drawback to be claimed by the exporter-claimant

on entries filed by him during the term of the bond rather than on a figure determined to be necessary to protect the revenue. The revision also would specify that Customs Form 7613, or rider "K" to General Term Bond, Customs Form 7595, would serve as the bond.

7. Proposed section 191.53(e)(2) would require the exporter-claimant to submit additional evidence to establish the identity of the exported articles and the fact of exportation. Under section 22.7(d)(1), additional evidence is needed only to establish the fact of exportation. In the case where the exporter-claimant uses this procedure for merchandise the subject of same condition drawback, he shall also furnish evidence that the merchandise was exported in the same condition as when imported.

8. Proposed section 191.55, relating to evidence of exportation of Government shipments would remove references to the certified notice of exportation procedure.

9. Proposed section 191.56 would remove the reference to certified notice of exportation in section 22.11, and use the term "request" in place of the term "application."

10. Proposed section 191.57 would provide that the district director may examine any merchandise to be exported with drawback for any reason deemed appropriate. Under section 22.12, he may examine any merchandise being exported with drawback if he is not satisfied as to the bona fide of the shipment.

#### SUBPART F—COMPLETION OF DRAWBACK CLAIMS

1. Proposed section 191.62(c) is new and would set forth the existing practice for completing drawback claims in cases where more than one party has a drawback claim in the exported merchandise. Proposed paragraph (c)(1) would provide for the procedure under a notice of exportation, and paragraph (c)(2) would provide for the procedure under the exporter's summary procedure.

2. Proposed section 191.62(d) would revise section 22.13(f) by removing the reference that no certificate of clearance need be filed at a port where the drawback entry is filed. Because liquidation under the revision would be conducted at regional headquarters, it is necessary to remove this reference.

3. Proposed section 191.63 would follow the substance of section 22.13(b) except that the term "summary" is used in place of the term "statement" to avoid confusion because the term "proposal" also is used in the revision in place of the term "statement."

4. Proposed section 191.66(b) is new and would set forth the requirement that a subcontractor shall complete a certificate of manufacture and delivery if he performs work which, although not constituting a manufacture or production, does make the identification of the merchandise difficult.

5. Proposed section 191.66(c) would revise section 22.16(b) by removing the "except" provision because that provision is no longer necessary.

6. Proposed section 191.66(f) is new and would provide for the special requirements incident to agency transactions.

7. Proposed section 191.67(c) would follow the substance of section 22.17(b) except that the term "carrier" is used in place of the term "vessels," to update transportation terminology.

8. Proposed section 191.67(e)(1) would follow section 22.17(e) except that the term "evidence of clearance" is used in place of the term "evidence of exportation" to be more precise about the type of evidence required.

9. Proposed section 191.67(e)(2) would clarify section 22.17(d) to show that a district director may accept other satisfactory evidence of foreign landing in place of the landing certificate.

#### SUBPART G—PAYMENT AND LIQUIDATION OF DRAWBACK CLAIMS

1. Proposed section 191.71(b)(1) would follow the substance of the first sentence of section 22.20(b) except that the waiver provision has been expanded to encompass "other provisions of law" rather than "provisions of this section."

2. Proposed section 191.71(d) would revise section 22.20(d) by omitting reference to the "notice of exportation" because exportation can be established by other documents such as a bill of lading. The reference to "landing certificate" in section 22.20(d) would be removed because that document would be incorporated within the meaning of "other necessary documents" of proposed section 191.71(d). Also, the change in the manner of establishing exportation from that provided in section 22.20(d) would be necessary because under the revision, drawback entries would be liquidated at regional headquarters.

3. Proposed section 191.71(e)(1) would incorporate the substance of footnote 8 of section 22.20(e).

4. Proposed section 191.71(e)(2) would follow the substance of section 22.20(e) except that under the revision, the values shall be the market values "unless the drawback contract provides otherwise" rather than "unless the special regulations under which drawback is claimed provide otherwise."

5. Proposed section 191.71(f), relating to payment, would revise section 22.20(f) by referring the reader to proposed section 191.73 rather than state to whom payment is to be made.

#### SUBPART H—INTERNAL REVENUE TAX ON FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

1. Proposed section 191.82(d)(1) would revise section 22.23(f) to require the manufacturer to apply for a new drawback contract pursuant to section 191.25 if there were a variance of alcohol greater than 5 percent in a previously approved proposal and to file a new schedule rather than use the amendment procedure of section 22.4(o).



2. Proposed section 191.82(d)(2) also would revise section 22.23(f) by requiring the variance of alcohol to be reported to the regional commissioner rather than the district director.

3. Proposed section 191.82(g) would remove the first sentence of section 22.23(c), relating to filing the notice of exportation on Customs Form 7511, because that sentence appears to be superfluous.

4. Proposed section 191.83(b)(3), relating to verification of a statement, would revise section 22.23(e) by requiring the statement to be forwarded to the Customs region rather than the port as in the present section. The last sentence of 22.23(e) would be deleted from the revision.

#### SUBPART I—SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT

1. Proposed section 191.93(b), relating to time of filing the drawback notice of lading, would revise section 22.18(c) by removing the reference to showing the date of clearance or departure of a vessel or aircraft.

2. Proposed section 191.93(c) would revise section 22.18(c) by requiring the notice of lading to show the Customs region where the drawback is to be filed rather than the name of the port as in the present section.

3. Proposed section 191.93(e)(1) would revise section 22.18(c) by requiring the master or other officer to complete that part of the drawback notice entitled "Declaration of Master or Other Officer." The present section does not specify where on the Customs form the declaration is to be completed. The reference to "certification" in the present section is being removed from the revision.

4. Proposed section 191.93(f) would revise section 22.18(h) by removing the format for showing the required information regarding class of business or trade of vessels or aircraft because the information already is contained on Customs Form 7514.

5. Section 22.18(e) would be removed since proposed section 191.93(f) would be made applicable to aircraft as well as vessels.

6. Proposed section 191.93(g) would revise section 22.18(d) by making that section applicable to aircraft as well as vessels and specifying the parts of the drawback notice the district director is to complete.

7. Proposed section 191.93(j)(1) would follow section 22.18(j). However, the revised section would not state the specific part on the reverse side of Customs Form 7514 to be filled out because of a technical problem. Although the revision would be applicable to both vessels and aircraft, the title on the form is "Blanket Certificate of Lading for Fuel on Aircraft." Corrective action will be undertaken after approval of the final rule.

8. Proposed section 191.93(j)(3) would revise section 22.18(j) by setting forth the title of the part on Customs Form 7514, "Declaration of Master or Other Officer," to be completed.



9. The last sentence of section 22.18(j) would be removed from the revision because the declaration is set forth on Customs Form 7514.

10. Proposed section 191.93(k) would revise section 22.18(g) by making that section applicable to aircraft as well as vessels.

#### SUBPART J—MEATS CURED WITH IMPORTED SALT

1. Proposed section 191.101 is new and would set forth the statutory provision for drawback under 19 U.S.C. 1313(f) in general terms.

2. Proposed section 191.102(a) would follow the substance of section 22.19(a) except that the reference to application for a rate of drawback has been deleted from the revision.

Also, the last sentence of section 22.19(a) would be removed since claims generally amount to more than \$100.

#### SUBPART K—MATERIALS FOR CONSTRUCTION AND EQUIPMENT OF VESSELS AND AIRCRAFT BUILT FOR FOREIGN ACCOUNT AND OWNERSHIP

This is a new subpart.

1. Proposed section 191.111 would discuss the statutory provision for drawback under 19 U.S.C. 1313(g).

2. Proposed section 191.112 would state that the other provisions of this Part relating to direct identification drawback apply to claims for drawback insofar as applicable to and not inconsistent with the provisions of this subpart.

3. Proposed section 191.113 would provide an explanation of the terms used in 19 U.S.C. 1313(g) which presently appear as footnote 2 under section 22.1. The phrase "or to materials not required for safe operation of the vessel or aircraft" has been added to explain the term "materials."

#### SUBPART L—FOREIGN-BUILT JET AIRCRAFT ENGINES PROCESSED IN THE UNITED STATES

1. Proposed section 191.121 is new and would state that the other provisions of this part apply to claims for drawback insofar as applicable to and not inconsistent with the provisions of this subpart.

#### SUBPART M—MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

1. Proposed 191.132 would set forth the statutory language of 19 U.S.C. 1558 contained in section 22.28(a) and footnote 14. Subsection (c) of the statute would appear under revised section 191.132(c) although it does not presently appear in footnote 14. Subsection (b) of the statute, presently appearing in footnote 14, would be removed from the revision.

2. Proposed section 191.133(a) would follow the substance of section 22.28(b) except that the term "public stores" is used in the revision in place of "appraiser's stores."

3. Proposed section 191.134(a) would follow the substance of section 22.29(a) except that the proper form is Customs Form 7512. Customs Form 7541 has been discontinued.

4. Proposed section 191.136(a) would follow the substance of section 22.29(d) except that the bill of lading must be filed within 6 months after the merchandise is exported, rather than 2 years.

5. The last sentence of section 22.29(d), and section 22.29(e) would be removed because they are superfluous.

6. Proposed section 191.136(e) would provide that the regional commissioner, rather than the district director, may issue extracts from bills of lading filed with drawback entries as presently stated in section 22.29(f). Also, the reference to Customs Form 4475 would be removed.

7. Proposed section 191.138 would follow the substance of sections 22.30 (a) and (b) except that the regional commissioner shall determine drawback rather than the district director.

#### SUBPART N—SAME CONDITION DRAWBACK

This subpart is new and would incorporate into the Customs Regulations provisions relating to same condition drawback. Public Law 96-609 amended section 313 of the Tariff Act of 1930, as amended (19 U.S.C. 1313) by redesignating subsections (j) and (k) as subsections (k) and (l), respectively, and by inserting immediately after subsection (i) new subsection (j) relating to same condition drawback.

1. Proposed section 191.141 would discuss the statutory provisions for same condition drawback. Drawback is provided for on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation and destruction. The imported merchandise must be exported or destroyed before the close of the 3-year period beginning on the date of importation.

2. Proposed section 191.142 would provide the filing requirements for an exporter-claimant who desires to export merchandise and claim drawback under 19 U.S.C. 1313(j). The times for filing Customs Form 7539, examination, and exportation of the merchandise are discussed.

3. Proposed section 191.143 would provide that within 3 months after exportation, an exporter-claimant shall complete the drawback entry by filing (with the same district director who received Customs Form 7539) evidence of exportation under the uncertified notice of exportation procedure or certified notice of exportation by mail procedure.

4. Proposed section 191.144 would provide that an exporter-claimant may apply with the regional commissioner, or the district di-

rector if authority has been delegated to that official, for permission to use the exporter's summary procedure in place of the uncertified notice of exportation procedure and the certified notice of exportation by mail procedure.

5. Proposed section 191.146 would provide the procedure for an exporter-claimant who desires to destroy merchandise and claim drawback under 19 U.S.C. 1313(j).

6. Proposed section 191.147(a) would provide that entries shall be liquidated or reliquidated in the region or districts as determined by the regional commissioner.

7. Proposed section 191.148 would provide the procedure for obtaining drawback upon the exportation of imported merchandise not conforming to sample or specification or shipped without the consent of the consignee. Customs considers this to be a limited form of same condition drawback as it relates to the exportation of merchandise (but not destruction of merchandise), and thus the revision would simplify the existing procedures.

#### SUBPART O—DISTILLED SPIRITS, WINES, OR BEER WHICH ARE UNMERCHANTABLE OR DO NOT CONFORM TO SAMPLE OR SPECIFICATIONS

This subpart is new and would incorporate into the Customs Regulations the current procedures used to implement the refund of internal-revenue taxes in compliance with 26 U.S.C. 5062(c).

Customs Form 7539, appropriately modified, would be used to claim drawback under this subpart. If the owner claims the merchandise to be unmerchantable, that party would provide a certificate setting forth in detail the facts which caused the merchandise to be unmerchantable. If the drawback claimant proposes to destroy, rather than export the merchandise, he shall so state that fact on Customs Form 7539. Merchandise under this subpart could not be exported by mail.

Under this subpart, there would be no time limit for the return to Customs custody of distilled spirits, wine, or beer subject to the refund of taxes. However, merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed unless extended by the district director for an additional 90-day period.

No deduction of 1 percent of the internal-revenue taxes paid or determined shall be made in allowing claims under 26 U.S.C. 5062(c), Internal Revenue Code, as amended.

#### SUBPART P—MERCHANDISE TRANSFERRED TO A FOREIGN TRADE ZONE FROM CUSTOMS TERRITORY

1. Proposed section 191.163(a) would follow the substance of section 22.37(a) except that the reference to "application for a rate of drawback" has been removed from the revision.

2. Proposed section 191.163(c)(1) would clarify a provision in section 22.37(d) that the Customs officer at the foreign trade zone would receive a copy of Customs Form 7514.

3. Proposed section 191.164(b) would revise section 22.38(a) by indicating that the proper form is Customs Form 7512, and that the district director shall forward a copy of that form to the Customs officer in charge at the zone.

4. Proposed section 191.164(d) would revise section 22.38(b) by providing that Customs Form 7512 shall be used rather than Customs Form 7541, and by changing the title of the certification form signed by the foreign trade zone operator to "Certification of Foreign Trade Zone Operator" in paragraph (d)(2) of the revision.

5. Proposed sections 191.165 (b) and (c) would revise section 22.39(a) by providing for the procedure to be followed relating to Customs Form 7539 rather than merely referring to the provision governing the transfer of merchandise to a foreign trade zone.

6. Proposed section 191.165(d) would revise section 22.39(b) by providing for a "Certification of Foreign Trade Zone Operator" on Customs Form 7539.

#### REMOVAL FROM REGULATIONS

1. Sections 22.6 (a), (b), (c), and (d), relating to general drawback rates, would be removed from the revision.

2. The following sections also would be removed from the revision:

- a. Section 22.6(e), relating to bags and meat wrappers;
- b. Section 22.6(f), relating to sugars and sirups;
- c. Section 22.6(g), relating to linseed oil;
- d. Section 22.6(g-1), relating to crude petroleum and petroleum derivatives;
- e. Section 22.6(h), relating to piece goods;
- f. Section 22.6(i), relating to fur skins and fur skin articles.

These sections are not of sufficient general applicability to be included in the revision. By removing these sections from the revision, however, no member of the public would be forfeiting any rights and benefits. Questions concerning these substantive areas, which may arise in the future, may be addressed by a request for a ruling pursuant to Part 177, Customs Regulations (19 CFR Part 177). A drawback proposal may be submitted pursuant to Subpart B. Also, Customs Headquarters will publish as Treasury Decisions, as it has already done so in some cases, general drawback contracts under Subpart D on the above sections.

#### EDITORIAL CHANGES

Throughout the revision, numerous editorial changes have been made to clarify and simplify the language contained in the drawback regulations.

## OTHER CHANGES

Various parts of title 19, Code of Federal Regulations, have sections which contain cross-references to Part 22. This document proposes to amend those sections of the Customs Regulations by conforming the cross-references found therein to new Part 191.

## COMMENTS

Before adopting this proposal, consideration will be given to any written comments, preferably in triplicate, submitted timely to the Commissioner of Customs. Comments submitted will be available for public inspection in accordance with section 103.8(b), Customs Regulations (19 CFR 103.8(b)), on normal business days between the hours of 9:00 a.m. and 4:30 p.m. at the Regulations Control Branch, Headquarters, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

## APPLICABILITY OF E.O. 12291

The Customs Office of Economic Analysis has determined that a preliminary regulatory impact analysis will not be prepared at this time because there is no data available to indicate that the proposed revision is a "major rule" as defined in the Executive Order. Customs requests the public to submit comments on the economic impact of the proposed revision. Following the period of public comment, the Office of Economic Analysis will reassess the applicability of the Executive Order and the necessity of preparing a final regulatory impact analysis.

## APPLICABILITY OF REGULATORY FLEXIBILITY ACT

The Customs Office of Economic Analysis has determined that an initial regulatory flexibility analysis under the Regulatory Flexibility Act will not be prepared at this time. There is no data available which would indicate that there will be a significant economic impact on a substantial number of small entities. To attempt to obtain economic impact data prior to the publication of the notice of proposed rulemaking on this matter would impose an unnecessary burden on small entities as well as large entities, who receive drawback. It appears, however, that any impact on small entities that will result from the proposed revision of Part 22 is likely to be a net beneficial impact, and is likely to ease the burden on both the public and Customs. Customs requests the public, especially small entities, to submit comments on the economic impact of the proposed revision. Following the period of public comment, the Office of Economic Analysis will reassess the applicability of the Regulatory Flexibility Act and the necessity of preparing a final regulatory flexibility analysis.

## PAPERWORK REDUCTION ACT

Pursuant to section 3504(h) of the Paperwork Reduction Act of 1980 (Pub. L. 96-511), applicable sections of this document are subject to clearance by the Office of Management and Budget.

## DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

## PROPOSED REVISION TO THE CUSTOMS REGULATIONS

Under the authority of 5 U.S.C. 301, R.S. 251, as amended (19 U.S.C. 66), sections 313, 624, 46 Stat. 693, as amended, 759 (19 U.S.C. 1313, 1624), 77A Stat. 14 (19 U.S.C. 1202, General Headnote 11), it is proposed to amend the Customs Regulations as set forth below:

## PART 22—DRAWBACK

It is proposed to amend Chapter I of title 19, Code of Federal Regulations, by removing Part 22.

## PART 191—DRAWBACK

It is proposed to further amend Chapter I of title 19, Code of Federal Regulations, by adding a new part, Part 191, to read as follows:

## PART 191—DRAWBACK

Sec.  
191.0 Scope.

## SUBPART A—GENERAL PROVISIONS

- 191.1 Authority of the Commissioner of Customs.
- 191.2 Definitions.
- 191.3 Duties subject to drawback.
- 191.4 Types of drawback.
- 191.5 Retention of records.
- 191.6 Authority to sign drawback documents.
- 191.7 Protests.
- 191.8 Time limitations.
- 191.9 Falsification of drawback claims.
- 191.10 Verification of drawback claims.
- 191.11 Merchandise in which a United States Government interest exists.
- 191.12 Drawback on duties paid to Puerto Rico.
- 191.13 Guantánamo Bay.

## SUBPART B—SPECIFIC DRAWBACK CONTRACTS

- 191.21 Drawback proposal.
- 191.22 Records, storage, identification.

## Sec.

- 191.23 Approval.
- 191.24 Schedules and supplemental schedules.
- 191.25 Modification of contracts.
- 191.26 Termination or renewal.

## SUBPART C—USE OF SUBSTITUTED MERCHANDISE

- 191.31 Drawback substitution.
- 191.32 Records and general provisions.
- 191.33 Multiple products.
- 191.34 Agency.

## SUBPART D—GENERAL DRAWBACK CONTRACTS

- 191.41 Applicability.
- 191.42 Procedure.
- 191.43 Acknowledgement.
- 191.44 Termination or renewal.
- 191.45 Payment.

## SUBPART E—EVIDENCE OF EXPORTATION

- 191.51 Alternative procedures.
- 191.52 Uncertified Notice of Exportation.
- 191.53 Exporter's Summary.
- 191.54 Certified Notice of Exportation by Mail.
- 191.55 Exportation by the Government.
- 191.56 Amendment of evidence of exportation.
- 191.57 Examination of the merchandise.

## SUBPART F—COMPLETION OF DRAWBACK CLAIMS

- 191.61 Time for filing.
- 191.62 Filing procedure.
- 191.63 Summary of papers filed.
- 191.64 Supplemental filing.
- 191.65 Certificates of delivery.
- 191.66 Certificates of manufacture and delivery.
- 191.67 Landing certificates.

## SUBPART G—PAYMENT AND LIQUIDATION OF DRAWBACK CLAIMS

- 191.71 Liquidation.
- 191.72 Accelerated payment.
- 191.73 Person entitled to receive drawback.

## SUBPART H—INTERNAL REVENUE TAX ON FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

- 191.81 Drawback allowance.
- 191.82 Procedure.
- 191.83 Additional requirements.
- 191.84 Alcohol, Tobacco and Firearms certificates.
- 191.85 Liquidation.
- 191.86 Amount of drawback.

## SUBPART I—SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT

- 191.91 Drawback allowance.
- 191.92 Procedure.
- 191.93 Drawback notice of lading.

## Sec.

191.94 Drawback entry.

## SUBPART J—MEATS CURED WITH IMPORTED SALT

191.101 Drawback allowance.

191.102 Procedure.

191.103 Refund of duties.

SUBPART K—MATERIALS FOR CONSTRUCTION AND EQUIPMENT OF VESSELS AND  
AIRCRAFT BUILT FOR FOREIGN ACCOUNT AND OWNERSHIP

191.111 Drawback allowance.

191.112 Procedure.

191.113 Explanation of terms.

## SUBPART L—FOREIGN-BUILT JET AIRCRAFT ENGINES PROCESSED IN THE UNITED STATES

191.121 Drawback allowance.

191.122 Procedure.

191.123 Drawback entry.

191.124 Refund of duties.

## SUBPART M—MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

191.131 Drawback allowance.

191.132 Merchandise released from Customs custody.

191.133 Continuous Customs custody.

191.134 Filing the entry.

191.135 Merchandise withdrawn from warehouse for exportation.

191.136 Bill of Lading.

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191.138 Procedures.

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## SUBPART N—SAME CONDITION DRAWBACK

191.141 Drawback.

191.142 Filing and documentation prior to exportation.

191.143 Completion of drawback entry.

191.144 Alternative procedure for exported merchandise.

191.145 General.

191.146 Drawback on destroyed merchandise.

191.147 Liquidation of the drawback claim.

191.148 Merchandise not conforming to sample or specification or shipped without  
the consent of the consignee.SUBPART O—DISTILLED SPIRITS, WINES, OR BEER WHICH ARE UNMERCHANTABLE OR DO  
NOT CONFORM TO SAMPLE OR SPECIFICATIONS

191.151 Refund of taxes.

191.152 Procedure.

191.153 Documentation.

191.154 Return to Customs custody.

191.155 No exportation by mail.

191.156 Destruction of merchandise.

191.157 Liquidation.

191.158 Time limit for exportation or destruction.

SUBPART P—MERCHANDISE TRANSFERRED TO A FOREIGN-TRADE ZONE FROM CUSTOMS  
TERRITORY

191.161 Drawback allowance.



Sec.

191.162 Zone-restricted merchandise.

191.163 Articles manufactured or produced in the United States.

191.164 Merchandise transferred from continuous Customs custody.

191.165 Same condition merchandise and merchandise not conforming to sample or specifications or shipped without the consent of the consignee.

191.166 Person entitled to receive drawback.

**Authority:** R.S. 251, as amended, secs. 313, 624, 46 Stat. 693, as amended, 759, 77A Stat. 14; 5 U.S.C. 301, 19 U.S.C. 66, 1202 (General Headnote 11), 1313, 1624. Additional authority and statutes interpreted or applied are cited in the text or following the section affected.

**Source:** T.D. —, unless otherwise noted.

### § 191.0 Scope.

This part sets forth general provisions applicable to all drawback claims and specialized provisions applicable to specific types of drawback claims.

## SUBPART A—GENERAL PROVISIONS

### § 191.1 Authority of the Commissioner of Customs.

Pursuant to Treasury Department Order No. 165, Revised (T.D. 53654, 19 FR 7241), as amended, the Commissioner of Customs, with the approval of the Secretary of the Treasury, shall prescribe rules and regulations regarding drawback.

### § 191.2 Definitions.

(a) *Drawback*. "Drawback" means a refund or remission, in whole or in part, of a customs duty, internal revenue tax, or fee lawfully assessed or collected because of a particular use made of the merchandise on which the duty or tax was assessed or collected.

(b) *Designated merchandise*. "Designated merchandise" means duty-paid merchandise or drawback products identified by a drawback claimant as the basis for a drawback claim.

(c) *Drawback proposal*. A "drawback proposal" means a written document executed by a manufacturer or producer which contains an offer to operate under the drawback law and regulations.

(d) *Drawback acceptance*. "Drawback acceptance" means a letter from Customs to the manufacturer or producer accepting the proposal. Regional commissioners of Customs accept proposals filed pursuant to 19 U.S.C. 1313(a). U.S. Customs Headquarters accepts proposals in all other cases.

(e) *Specific drawback contract*. A "specific drawback contract" means the drawback proposal and the drawback acceptance. Synopses of contracts are published in the weekly "Customs Bulletin," where each contract is assigned an identifying Treasury Decision (T.D.) number.

(f) *General drawback contract*. A "general drawback contract" means a contract offer prepared by Customs and published in the "Customs Bulletin", and a letter of acceptance by anyone able to

comply with its terms and conditions. Letters of acceptance to adhere to the terms shall be filed with a regional commissioner.

(g) *Drawback product*. A "drawback product" means a finished or partially finished product manufactured in the United States under a drawback contract. A drawback product may be exported with a claim for drawback, or it may be used in the further manufacture of other drawback products by manufacturers who have appropriate drawback contracts, in which case drawback is claimed upon exportation of the ultimate product. For purposes of 19 U.S.C. 1313(b), drawback products may be designated as the basis for drawback or deemed to be domestic merchandise.

(h) *Drawback entry*. A "drawback entry" means a document containing a description of, and other required information concerning, exported or destroyed articles on which drawback is claimed. Depending on the type of drawback applied for, entries are filed on Customs Form 7512, 7539, 7573, 7575, 7579, or 7583.

(i) *Drawback claim*. A "drawback claim" means the drawback entry and related documents required by these regulations which together constitute the request for drawback payment.

(j) *Direct identification drawback*. "Direct identification drawback" means drawback authorized under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)). See section 191.4(a)(1) of this part.

(k) *Substitution drawback*. "Substitution drawback" means drawback authorized under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)). See section 191.4(a)(2) of this part.

(l) *Fungible merchandise*. "Fungible merchandise" means merchandise which for commercial purposes is identical and interchangeable in all situations.

(m) *Same kind and quality merchandise*. "Same kind and quality merchandise" means merchandise which may be substituted under substitution drawback. Fungible merchandise is always same kind and quality merchandise; however, same kind and quality merchandise is not always fungible merchandise.

(n) *Schedule*. A "schedule" means a document filed by a drawback claimant showing the quantity of imported material used or appearing in each unit of product exported with drawback or showing the different styles or the capacities of containers for the products.

(o) *Verification*. "Verification" means the examination of any and all records, books, documents, and papers maintained by the claimant, whether or not specifically described in the claimant's proposal, which are required by the regulatory auditor to render a meaningful recommendation concerning the drawback claimant's conformity to the law and regulations and the determination of supportability, correctness, and validity of the specific claim or groups of claims being verified. "Verification" also means the determination that the exported product was produced in conformity

with the drawback manufacturing process, described and approved in the claimant's proposal.

(p) *Abstract of manufacturing records.* "Abstract of manufacturing records" means a summary of original documents. A Drawback Entry and Certificate of Manufacture for Exported Articles, Customs Form 7575, or Certificate of Manufacture and Delivery Customs Form 7577, when properly completed, may serve as abstracts of manufacturer's records.

### § 191.3 Duties subject to drawback.

The duties subject to drawback include:

- (a) All ordinary Customs duties;
- (b) Dumping duties assessed under title VII, Tariff Act of 1930, as amended (19 U.S.C. 1673);
- (c) Countervailing duties assessed under sections 303 and 701, Tariff Act of 1930, as amended (19 U.S.C. 1303, 1671); and
- (d) Marking duties assessed under section 304(c), Tariff Act of 1930, as amended (19 U.S.C. 1304(c)).

### § 191.4 Types of drawback.

(a) *Drawback of duties and taxes.* Drawback of duties and taxes ordinarily are authorized in the following instances:

(1) *Direct identification drawback.* Drawback of duties is provided for in section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), upon the exportation of articles manufactured or produced in the United States wholly or in part with the use of imported merchandise.

(2) *Substitution drawback.* If imported duty-paid merchandise and duty-free or domestic merchandise of the same kind and quality are used in the manufacture or production of articles within a period not to exceed 3 years from the receipt of the imported merchandise by the manufacturer or producer of the articles, drawback is provided for in section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), upon the exportation of any of the articles, even though none of the imported merchandise may actually have been used in the manufacture or production of the exported articles. The amount of drawback is the same as that which would have been allowed had the merchandise used therein been imported.

(3) *Merchandise not conforming to sample or specifications or shipped without consent of consignee.* Drawback is provided for in section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)), upon the exportation of imported merchandise not conforming to sample or specifications or shipped without consent of the consignee.

(4) *Drawback of internal-revenue taxes.* Drawback of internal-revenue taxes is provided for in section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery)

manufactured or produced in the United States in part from domestic tax-paid alcohol.

(5) *Imported salt for curing fish.* Drawback of duties is provided for in section 313(e), Tariff Act of 1930, as amended (19 U.S.C. 1313(e)), on salt imported in bond and used in curing fish. (See section 10.80 of this chapter.)

(6) *Exportation of meats cured with imported salt.* Drawback of duties is provided for in section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), in amounts of not less than \$100, upon the exportation of packed or smoked meats cured in the United States with imported salt.

(7) *Material for construction and equipment of vessels and aircraft built for foreigners.* Drawback of duties is provided for in section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), on materials imported and used in constructing and equipping vessels and aircraft built for foreign account and ownership or for the government of any foreign country, even though these vessels and aircraft may not be exported within the strict meaning of the term.

(8) *Foreign-built jet aircraft engines processed in the United States.* Drawback of duties is provided for in section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), in amounts of not less than \$100, upon the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts.

(9) *Same condition drawback.* Drawback of duties is provided for in section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation and destruction.

(10) *Supplies for certain vessels and aircraft.* Drawback of duties and taxes is provided for in section 309(b), Tariff Act of 1930, as amended (19 U.S.C. 1309(b)), on articles withdrawn from bonded warehouses, bonded manufacturing warehouses, continuous Customs custody elsewhere than a bonded warehouse, or foreign trade zones, which are laden as supplies upon certain vessels or aircraft of the United States or as supplies including equipment upon or used in the maintenance or repair of certain foreign vessels or aircraft.

(11) *Merchandise exported from continuous Customs custody.* Drawback of duties is provided for in accordance with section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), upon the exportation to a foreign country, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of duty-paid merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation, provided it was exported or shipped within 5 years after the date of its importation.

(12) *Merchandise transferred to a foreign trade zone from Customs territory.* Drawback of duties and taxes is provided for in accordance with the fourth proviso of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c), on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage.

(b) *Refund of internal revenue taxes on imported distilled spirits, wines, or beer.* Refund, remission, abatement, or credit of internal revenue taxes paid or determined incident to importation on imported distilled spirits, wines, and beer is provided for in accordance with section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), upon the exportation, or destruction under Customs supervision, of these articles found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody.

#### § 191.5 Retention of records.

All records required to be kept by the manufacturer or producer under this part with respect to drawback claims, and records kept by others to complement the records of the manufacturer or producer (see sections 191.21(a)(1) and 191.22(d) of this part), shall be retained for at least 3 years after payment of such claims.

#### § 191.6 Authority to sign drawback documents.

(a) *Who shall sign.* Documents listed in paragraph (b) of this section shall be signed by one of the following:

(1) The president, a vice president, secretary, or treasurer of a corporation;

(2) A full partner of a partnership;

(3) The owner of a sole proprietorship; or

(4) Any person other than those described in paragraphs (a)(1) through (a)(3) of this section with a power of attorney. (See subpart C of Part 141 of this chapter.)

(b) *List of documents.* The following documents require execution in accordance with paragraph (a) of this section:

(1) Drawback entries.

(2) Certificates of delivery.

(3) Certificates of manufacture.

(4) Abstracts of manufacturing records.

(5) Proposals of manufacturers or producers, schedules, and supplemental schedules.

(6) Proposals of subcontractors.

(7) Letter of intention to adhere to general drawback contracts.

(8) Endorsements of exporters on bills of lading or notices of exportation.

(9) Authorizations by manufacturers, producers, exporters, or agents to pay drawback to other persons.

(10) Applications of importers to export merchandise in the same condition as when imported, or destroy merchandise under Customs supervision and not used within the United States before such exportation or destruction; and to export merchandise not conforming to sample or specifications.

(11) Importer's acceptances of liquidations of import entries as final.

(12) Protests.

#### § 191.7 Protests.

The decision of a regional commissioner of Customs refusing to pay a drawback claim is final and conclusive upon all persons unless the person filing the claim or his agent, within 90 days after but not before such decision, shall file a protest in writing with the district director. The protest shall be prepared in the manner prescribed in Part 174 of these regulations.

(Sec. 514, 46 Stat. 734, as amended; 19 U.S.C. 1514).

#### § 191.8 Time limitations.

(a) *General time limit.* Drawback shall be allowed only if the completed article is exported within 5 years after importation of the merchandise identified or designated to support the claim.

(19 U.S.C. 1313(i)).

(b) *Same condition drawback.* Drawback shall be allowed on imported merchandise if, before the close of the 3-year period beginning on the date of importation, the merchandise is exported in the same condition as when imported, or destroyed under Customs supervision, and is not used within the United States before such exportation or destruction.

(19 U.S.C. 1313(j)).

(c) *Merchandise in continuous Customs custody.* Drawback shall be allowed on imported merchandise which is exported, or shipped from continuous Customs custody to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, only if exported or shipped within 5 years after the date of its importation.

(Sec. 557(a), 46 Stat. 744, as amended; 19 U.S.C. 1557(a)).

#### § 191.9 Falsification of drawback claims.

Any person who knowingly and willfully files any false or fraudulent entry or claim for the payment of drawback upon the exportation of merchandise or knowingly or willfully makes or files any false document for the purpose of securing the payment to himself or others of any drawback on the exportation of merchandise greater than that legally due, shall be fined not more than \$5,000 or imprisoned not more than 2 years, or both, and the merchandise or its value shall be forfeited.

(Sec. 550, 62 Stat. 718; 18 U.S.C. 550).

#### § 191.10 Verification of drawback claims.

(a) *Claim.* A drawback claim filed under a drawback contract shall be subject to verification by the regional Regulatory Audit Division under the jurisdiction of the regional commissioner in whose region the claim is filed when the factory covered by the claim also is located in the same region.

(b) *Two or more factories.* If the claim selected for verification is filed in one region and one or more factories covered by the claim is located in another region, the regional commissioner selecting the claim for verification, in addition to taking the verification action required by paragraph (a) of this section, shall forward copies of the claim and the drawback contract, and a request for verification to the regional commissioners in whose regions the other factories are located.

(c) *Method.* The verifying official shall verify the claim and material set forth in the related drawback contract. Verification shall include an examination of the manufacturing records and all other accounting and financial records relating to the transaction(s).

(d) *Liquidation.* When the claim has been selected for verification, the appropriate Customs official will be notified of the claimant's identity, and liquidation will be postponed on all claims of the claimant. Postponement will continue in effect until the verification has been completed and the appropriate Regional Director, Regulatory Audit Division, issues a report.

(e) *Errors in drawback proposals.*

(1) *Contracts accepted by Customs Headquarters.*

(i) *Action by regional commissioner.* If verification of a drawback claim filed under a drawback contract accepted by Headquarters reveals errors or deficiencies in the drawback proposal on which the contract was based, the regional commissioner shall furnish a copy of the audit report to Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(ii) *Action by Headquarters.* A regional commissioner forwarding an audit report to Headquarters shall suspend liquidation of all drawback claims filed under the contract. Headquarters shall offer the claimant an opportunity to correct his proposal within a specified time.

(iii) *If claimant does not correct proposals.* If the claimant does not take corrective action within the prescribed time, the appropriate regional commissioner shall liquidate the claim(s) "no drawback."

(2) *Contracts accepted by regional commissioner.* The regional commissioner shall offer the claimant an opportunity within a specified time to amend proposals that are the basis of contracts which he has accepted. If the claimant does not take corrective action within the prescribed time, the regional commissioner shall liquidate the claim(s) "no drawback."



**§ 191.11 Merchandise in which a United States Government interest exists.**

(a) *Restricted meaning of Government.* A United States Government instrumentality operating with nonappropriated funds shall not be considered a Government entity within the meaning of this section.

(b) *Certificate.* With each drawback entry, except those filed pursuant to sections 313(c) and 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313 (c), (j)), the drawback claimant shall certify whether or not the merchandise concerned was sold to the United States Government.

(c) *Allowance of drawback.* If the merchandise was sold to the United States Government, drawback shall be available only to the:

(1) Department, branch, or agency of the United States Government, which purchased it; or

(2) Supplier, provided the claim is supported by documentation signed by a proper officer of the department, branch, or agency concerned certifying that the right to drawback was reserved by the supplier with the knowledge and consent of the department, branch, or agency.

**§ 191.12 Drawback on duties paid to Puerto Rico.**

Any drawback of duties authorized under this part shall be paid from special fund 20X6587 (A/R), Refunds, Transfers and Expenses of Operations, Puerto Rico, U.S. Customs Service, if the duties were originally paid into this fund (see 19 U.S.C 1313(l)).

**§ 191.13 Guantanamo Bay.**

Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes. However, under 19 U.S.C. 1313, there is no authority of law for the allowance of drawback of Customs duty on articles manufactured or produced in the United States and shipped to Puerto Rico, the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Guam, Canton Island, Enderbury Island, Johnston Island, or Palmyra Island.

**SUBPART B—SPECIFIC DRAWBACK CONTRACTS**

**§ 191.21 Drawback proposal.**

(a) *Proper applicant.* Each manufacturer or producer of articles intended for exportation with drawback, whether a primary, intermediate, or final manufacturer or producer of the articles and whether or not the owner of the merchandise used in the manufacture or production, shall apply for a specific drawback contract by submitting a drawback proposal. Procedures for adhering to a general drawback contract are provided in Subpart D.

(1) *Complementary recordkeeper.* Each person who keeps complementary records as provided for in section 191.22(d) of this part



shall file a proposal describing these records in accordance with the procedure prescribed in this section.

(2) *Subcontractors.* If a manufacturer or producer having a drawback contract engages a subcontractor to perform work which for drawback purposes does not constitute a manufacture or production, with the use of material which the principal plans to make the subject of a drawback claim, the subcontractor shall prepare a drawback proposal to establish how he will maintain the identification of the merchandise. The proposal, which is subject to the provisions of this section, is required only if the work performed by the subcontractor results in a problem in identification of the merchandise (for example, by changing its form or quantity).

(b) *Contents.* The proposal of each manufacturer or producer, complementary recordkeeper, and subcontractor shall:

(1) Describe his manufacturing operation fully and method of compliance with all requirements of the drawback law and regulations;

(2) State that the records of identification, manufacture or production, and storage prescribed in section 191.22 will be maintained; and

(3) Contain an agreement to follow the methods and keep records concerning drawback procedures.

(c) *Sample proposal.* Except for direct identification drawback, the Drawback and Bonds Branch, Office of Regulations and Rulings, Customs Headquarters, upon request, shall provide each prospective drawback applicant with a sample drawback proposal to assist the prospective applicant in preparing his submission. Sample proposals for direct identification drawback shall be provided by the regional commissioner upon request.

(d) *Submission.* Each manufacturer or producer who proposes to file for drawback exclusively under the provisions of section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shall submit the proposal described in paragraph (b) of this section, in duplicate, to the regional commissioner where his drawback entries will be liquidated. Each manufacturer or producer who proposes to file for drawback under the provision of section 313(b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313(b), (d), (g), (h)), or in any combination of section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), with section 313(b), (d), or (g), shall submit the proposal described in paragraph (b) of this section, in triplicate, to Customs Headquarters (Attention: Drawback and Bonds Branch, Office of Regulations and Rulings).

(e) *Two or more regions involved.* If drawback entries are to be liquidated at more than one regional office, the manufacturer or producer shall file two additional copies of the proposal for each additional office.

**§ 191.22 Records, storage, identification.**

(a) *Records for direct identification and other non-substitution manufacturing drawback.*

(1) *General Rule.* Except for record requirements under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), set forth in section 191.32 of this part, each manufacturer or producer shall keep records to establish for all articles manufactured or produced for exportation with drawback:

(i) The date or inclusive dates of manufacture or production;

(ii) The quantity and identity of the imported duty-paid merchandise or drawback products used in, or, if claim for waste is waived, and there are no multiple products, the quantity and identity of the imported merchandise or drawback products appearing in the articles manufactured or produced;

(iii) The quantity and description of the articles manufactured or produced;

(iv) The quantity of waste incurred. If claim for waste is waived and the appearing in basis is used, waste records need not be kept unless required to establish the quantity of imported duty-paid merchandise or drawback products appearing in the articles; and

(v) That the finished articles on which drawback is claimed were exported within 5 years after the importation of the duty-paid merchandise.

(2) *Valuable waste.* When waste has a value and the manufacturer or producer has not limited his claims to the quantity of imported duty-paid merchandise or drawback products appearing in the articles, he shall keep records to show the factory value of the imported duty-paid merchandise or drawback products used and the factory value of the waste. In liquidating the drawback entry, the quantity of imported duty-paid merchandise or drawback products used will be reduced by an amount equal to the quantity of merchandise the value of the waste would replace.

(3) *Duty-free or domestic merchandise.* The records of the manufacturer or producer shall show the quantity, if any, of duty-free or domestic merchandise used, when these records are necessary to determine the quantity of imported duty-paid merchandise or drawback products used in the manufacture or production of the articles or appearing in them.

(4) *Filing an abstract.* The drawback claimant shall file with the entry an abstract of the records of the manufacturer or producer.

(5) *Multiple products.*

(i) *General rule.* Where two or more products result from the use of merchandise, records shall show the value of each product at the time of separation.

(ii) *Claim covering a manufacturing period.* Where the operation results in two or more products and a claim covers a manufacturing period rather than a manufacturing lot, the time of separation of the products shall be considered the entire period covered by the

claim, and the value per unit of product is its weighted average market value for the period. Manufacturing periods in excess of one month may not be used without specific approval of Customs.

(b) *Storage and identification.* The designated merchandise and articles to be exported shall be stored in a manner which will enable the manufacturer, producer, or claimant (1) to determine, and the Customs officials to verify, the applicable import entry, certificate of delivery, or certificate of manufacture and delivery number or numbers; and (2) to identify with respect to that import entry, certificate of delivery, or certificate of manufacture and delivery, the imported duty-paid merchandise or drawback products used in the manufacture or production.

(c) *Identification of two or more lots.* Manufacturers, producers, or claimants shall identify for drawback purposes commingled lots of fungible merchandise and commingled lots of fungible products by applying first-in-first-out (FIFO) accounting principles. Under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), a manufacturer or producer may designate for drawback any lot or lots of imported duty-paid merchandise or drawback products, the lots being identified according to FIFO and Subpart C of this part.

(d) *Complementary records.* When Customs Headquarters or the regional commissioner, in appropriate cases, determines that a manufacturer or producer is unable to record all the information required for drawback, complementary records covering the information not available to the manufacturer or producer may be kept by the person(s) in the United States for whose account the products are manufactured or produced; and abstracts of these records shall be filed with the drawback entry. (See section 191.21(a)(1)).

(e) *Records and storage of merchandise by persons required to certify its delivery.*

(1) *Storage and records.* Each person required by sections 191.65 and 191.66(d) of this part to certify the delivery of imported merchandise or drawback products shall store this merchandise and products while in his possession and maintain records to show the:

(i) Quantity, identity, and description of the merchandise or products;

(ii) Date on which the merchandise or products were received by him;

(iii) Person from whom received;

(iv) Date delivered by him to other persons; and

(v) Persons to whom these deliveries were made.

(2) *Certificates or endorsements.* These records shall be the basis of the certificates or endorsements required by sections 191.65 and 191.66(d) of this part.

#### **§ 191.23 Approval.**

(a) *General rule.* If the required proposal(s) comply with the law and regulations, the regional commissioner in a case under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), or Cus-

toms Headquarters in a case under section 313 (b), (d), (g), or (h), Tariff Act of 1930, as amended (19 U.S.C. 1313 (b), (d), (g), (h)), or in any combination of section 313(a) with section 313 (b), (d), or (g), shall approve the drawback contract for a period of 15 years from the date of approval. (See section 191.26 of this part.)

(b) *Two or more regions.* When a proposal under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shows that entries are to be filed with more than one regional commissioner, the regional commissioner at the place first listed in the proposal has the authority to approve or disapprove the contract.

(c) *Drawback entries filed before contract issued.* Drawback entries may be filed before the drawback contract covering the claim is approved, but no drawback shall be paid until the contract is approved.

(d) *Payment of drawback.* After approval of the contract, drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and contract.

#### § 191.24 Schedules and supplemental schedules.

When a drawback contract provides that drawback shall be based upon a schedule filed by the manufacturer or producer, the appropriate regional commissioner where the entry is filed or Customs Headquarters, in accordance with section 191.23 of this part, shall review, and if satisfactory, approve the drawback schedule. If the contract authorizes the filing of supplemental schedules, schedules may be revised as necessary by the holder of the drawback contract. These revised supplemental schedules, if approved by the appropriate regional commissioner, shall be used to liquidate drawback claims.

#### § 191.25 Modification of contracts.

(a) *Supplemental proposals.* A manufacturer or producer desiring to modify an existing contract shall prepare a supplemental proposal in the form of the original proposal. The supplemental proposal shall contain all information necessary for a complete contract, as provided in section 191.21 of this part.

##### (b) *Approval.*

(1) *General.* Except as provided in paragraph (b)(2) of this section, the appropriate regional commissioner or Customs Headquarters shall approve a new drawback contract pursuant to section 191.23 of this part, for a period of 15 years from the date of its approval if the supplemental proposal complies with the law and regulations.

(2) *Limited modifications.* A supplemental proposal to modify an existing contract under section 313 (b), (d), or (g), Tariff Act of 1930, as amended, which otherwise would be submitted to Customs Headquarters, shall be submitted to the appropriate regional commissioner for approval provided the changes covered by the modification are limited to:

(i) A change in location of the factory of the manufacturer or producer;

(ii) An additional factory at which the methods followed and the records maintained are the same as those at another factory operating under an existing drawback contract of the manufacturer or producer;

(iii) The succession of a sole proprietorship, partnership, or corporation to the operations of the manufacturer or producer; or

(iv) Any combination of the foregoing changes.

(c) *Effect.* The new drawback contract shall supersede the contract which it modifies, and the Customs official who approves the new contract shall revoke the pre-existing contract.

#### **§ 191.26 Termination or renewal.**

Drawback contracts shall terminate 15 years from the date of approval unless, prior to the expiration of each 15-year period, the manufacturer or producer in accordance with section 191.23 of this part requests the applicable regional commissioner or Customs Headquarters to renew the contract for another 15-year period. A contract issued under section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), covering two or more regions, shall be renewed by the regional commissioner who approved the contract. A manufacturer or producer may terminate its contract at any time by writing to the appropriate regional commissioner or Customs Headquarters, as applicable.

### **SUBPART C—USE OF SUBSTITUTED MERCHANDISE**

#### **§ 191.31 Drawback substitution.**

The procedures set forth in subparts A and B of this part are applicable to drawback under the substitution provision (19 U.S.C. 1313(b)), except as otherwise provided in this subpart.

#### **§ 191.32 Records and general provisions.**

(a) *Records for substitution drawback.* The records of the manufacturer or producer of articles manufactured or produced in accordance with section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), shall establish:

(1) The identity and specifications of the merchandise designated;

(2) The quantity of merchandise of the same kind and quality as the designated merchandise used to produce (appearing in) the exported articles;

(3) That, within 3 years after receiving the designated merchandise at its factory, the manufacturer or producer used it in manufacturing or production and that during the same 3-year period, it manufactured or produced the exported articles; and

(4) That the completed articles were exported within 5 years after importation of the designated merchandise.

(b) *Valuable waste records.* When drawback claims are not limited to the quantity of merchandise appearing in the articles manu-

factured or produced for exportation with drawback, the records of the manufacturer or producer shall show the quantity and value of both the merchandise used in the manufacture or production of the articles and valuable waste incurred in order that the deduction provided for in section 191.22(a)(2) may be made in liquidation.

(c) *Exchanged petroleum.* To comply with paragraph (a)(3) of this section, the use of domestic crude petroleum exchanged for imported crude petroleum in conformity with Presidential Proclamation No. 3279 of March 10, 1959, as amended, and the Oil Import Regulations issued thereunder, shall constitute use of the imported crude petroleum provided no certificate of delivery on Customs Form 7543 is issued covering this imported crude petroleum.

(d) *Use by same manufacturer or producer at different plants.* Duty-paid merchandise or drawback products used at one plant of a manufacturer or producer within 3 years after the date on which the material was received may be designated as the basis for drawback on articles manufactured or produced in accordance with these regulations at other plants of the same manufacturer or producer.

#### **§ 191.33 Multiple products.**

When two or more products are produced concurrently in an operation under section 313(b), Tariff Act of 1930, as amended (19 U.S.C. 1313(b)), drawback shall be distributed to each product in accordance with its relative value at the time of separation. Where the abstract covers a manufacturing period rather than a manufacturing lot, the entire period of the abstract is the time of separation of the products and the value per unit of product is the weighted average market value for the abstract period.

#### **§ 191.34 Agency.**

(a) *General rule.* If an owner of imported or domestic merchandise furnishes this merchandise to an agent in accordance with a contract between the two parties, and the agent manufactures from it articles for the owner's account, the owner shall be considered as the user of the merchandise.

(b) *Contracts required.*

(1) *Owner's contract.* An owner of merchandise who wishes to be considered a manufacturer pursuant to paragraph (a) of this section shall apply for a drawback contract under subpart B of this part. The proposal shall describe the agency arrangement and explain how the owner and agent together will comply with the drawback law and regulations.

(2) *Agents' contract.* Each agent operating under this section must have a drawback contract covering the articles manufactured.

## SUBPART D—GENERAL DRAWBACK CONTRACTS

**§ 191.41 Applicability.**

A general drawback contract is designed to simplify drawback procedures for certain common manufacturing operations but does not preclude or limit the use of drawback proposals and specific drawback contracts.

**§ 191.42 Procedures.**

(a) Customs Headquarters shall from time to time prepare and publish in the "Customs Bulletin" approved general drawback contracts in situations where numerous manufacturers or producers have similar operations and wish to claim drawback.

(b) Any manufacturer or producer who can comply with the terms and conditions of the published general drawback contract may adhere to it by notifying a regional commissioner in writing of the intention to do so and providing him with the following information:

- (1) Name and address of adherent;
- (2) Factories which will operate under the contract;
- (3) If a corporation, the names of officers or persons with power of attorney who will sign drawback documents on behalf of the adherent.

**§ 191.43 Acknowledgement.**

The regional commissioner shall acknowledge in writing the receipt of the letter of adherence of the manufacturer or producer to a general drawback contract. The general drawback contract for that manufacturer or producer shall be effective for a period of 15 years from the date of the letter of acknowledgement.

**§ 191.44 Termination or renewal.**

A general drawback contract shall terminate 15 years from the date of the letter of acknowledgement unless, prior to the expiration of the 15-year period, the manufacturer or producer requests the applicable regional commissioner to renew the contract for another 15-year period. Upon satisfactory review, the regional commissioner shall renew the contract. A manufacturer or producer may terminate its contract at any time.

**§ 191.45 Payment.**

Drawback will be paid on articles manufactured or produced and exported in accordance with the law, regulations, and general drawback contract.

## SUBPART E—EVIDENCE OF EXPORTATION

**§ 191.51 Alternative procedures.**

Exportation of articles for drawback purposes shall be established by complying with one of the following procedures:

- (a) Uncertified Notice of Exportation, section 191.52;



- (b) Exporter's Summary, section 191.53;
- (c) Certified Notice of Exportation for mail shipments, section 191.54;
- (d) Notice of Lading for supplies on certain vessels or aircraft, section 191.93, or
- (e) Notice of Transfer for articles manufactured or produced in the United States which are transferred to a foreign trade zone, section 191.163.

#### **§ 191.52 Uncertified Notice of Exportation.**

(a) *Filing.* A drawback claimant may support the drawback claim with a notice of exportation on Customs Form 7511 for each shipment of merchandise covered by the claim.

(b) *Contents.* The notice of exportation shall show the:

- (1) Name of the exporting vessel or other carrier;
- (2) Number and kinds of packages and their marks and numbers;
- (3) Description of the merchandise, including its weight (gross and net), gauge, measure, or number;
- (4) Name of the exporter; and
- (5) Country of ultimate destination.

(c) *Documentary evidence of exportation.* A notice of exportation shall be supported by documentary evidence of exportation, such as the bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies thereof, issued by the exporting carrier, or U.S. Customs documents evidencing exportation. Supporting documentary evidence shall establish fully the time and fact of exportation and the identity of the exporter.

(d) *Numbering.* Prior to filing a notice of exportation with the drawback entry, the claimant shall assign to the notice a number which shall be stamped or endorsed on the original and each copy of the notice. The number assigned shall correspond to that of the supporting document, such as the bill of lading, air waybill, or cargo manifest, filed with the notice of exportation. If the supporting document covers more than one notice of exportation, the claimant shall assign to each notice the same number; but each notice shall be further identified by an alphabetic designation beginning with the letter "A". He shall give a different alphabetic designation to each notice having the same number. If the supporting document has no number, he shall number consecutively each notice of exportation.

#### **§ 191.53 Exporter's summary.**

(a) *Eligibility.* This procedure shall be available to improve administrative efficiency.

(b) *Application.* The exporter-claimant shall request permission to use this procedure with the regional commissioner where the drawback claim will be filed, unless in cases of merchandise the subject of same condition drawback, the regional commissioner has delegated authority to approve requests to a district director. In



that circumstance, the request shall be made with the district director.

(c) *Approval.* The regional commissioner, or the district director, if applicable in the case of merchandise the subject of same condition drawback, may grant permission to use this procedure if he concludes that its use would contribute to administrative efficiency, and the exporter-claimant is not delinquent or otherwise remiss in his transactions with Customs.

(d) *Bond.* The exporter-claimant shall furnish a drawback export bond on Customs Form 7613, or shall designate rider "K" on General Term Bond, Customs Form 7595, in an amount equal to 25 percent of the drawback to be claimed on entries filed by him during the term of the bond.

(e) *Documentary evidence.*

(1) *Records.* The exporter-claimant shall maintain complete and accurate records of exportation, including the identity and location of the ultimate consignee of the exported articles. The exporter shall retain these records for at least 3 years after payment of such claims.

(2) *Additional evidence.* The exporter-claimant shall support the drawback entry with a chronological summary of the exports and any additional evidence required by Customs officers to establish fully the identity of the exported articles and the fact of exportation. In the case where the exporter-claimant uses this procedure for merchandise the subject of same condition drawback, he shall show also that the merchandise was exported in the same condition as when imported.

(3) *Format of chronological summary.* The chronological summary of the exports shall be in a format acceptable to the regional commissioner with whom drawback claims are filed and shall contain the following data:

#### Chronological Summary of Exports

Drawback Entry # —————

Exporter/Claimant —————

Period from ————— to —————

Date of export	Exporting carrier	Freight or air waybill, bill of lading, manifest No., etc.*	Marks and numbers	Description	Net quantity	Sched- ule "B" No.	Destination
(1)	(2)	(3)	(4)	(5)	(6)	(7)	(8)

\*This number is to be used to associate the claim with exportation evidence retained by claimant.

**§ 191.54 Certified notice for exportation by mail.**

(a) *Procedure.* If the merchandise on which drawback is to be claimed is exported by mail or parcel post, the exporter or his agent shall complete a notice of exportation on Customs Form 7511 in triplicate and file it with the postmaster at the place of mailing. The merchandise shall be delivered to the postmaster at the same time and mailed under his supervision.

(b) *Waiver of withdrawal.* A waiver of the right to withdraw a package from the mail shall be stamped or written on each package for export, signed by the exporter.

(c) *Certification.* After the package is mailed, the postmaster shall certify one copy of the notice of exportation and return this copy and one uncertified copy to the exporter or his agent for subsequent filing with the drawback entry. The postmaster shall retain one copy as his record of the transaction.

**§ 191.55 Exportation by the Government.**

(a) *Claim by U.S. Government.* When a department, branch, or agency of the United States Government exports products with the intention of claiming drawback, it may establish the exportation in the manner provided in section 191.52 or 191.53. No bond shall be required when the United States Government claims drawback.

(b) *Claim by supplier.* When a supplier of merchandise to the Government claims drawback, exportation shall be established under section 191.52.

**§ 191.56 Amendment of evidence of exportation.**

At any time within the 3-year period prescribed for the completion of the drawback claim, the exporter or his agent may amend a notice of exportation or exporter's summary, provided the regional commissioner is satisfied that the amendment is complete and correct. A written request for amendment with supporting evidence shall be submitted to the regional commissioner where the drawback entry is filed.

**§ 191.57 Examination of the merchandise.**

The district director may examine any merchandise to be exported with drawback for any reason deemed appropriate.

**SUBPART F—COMPLETION OF DRAWBACK CLAIMS****§ 191.61 Time for filing.**

A drawback entry and all documents necessary to complete a drawback claim, including those issued by one Customs officer to another, shall be filed or applied for, as applicable, within 3 years after the date of exportation of the articles on which drawback is claimed, except that any landing certificate required under section 191.67(d) of this part shall be filed within the time limit prescribed therein. Claims not completed within the 3-year period shall be considered abandoned. No extension will be granted unless it is es-

established that a Customs officer was responsible for the untimely filing.

**§ 191.62 Filing procedure.**

*(a) Entry and certificate of manufacture.*

(1) *Customs Form 7575.* Except as provided in paragraph (a)(2) of this section, the drawback claimant shall file with the appropriate district director the drawback entry and certificate of manufacture in duplicate on Customs Form 7575. The district director may require an additional copy for administrative use.

(2) *Customs Form 7573.* The drawback claimant shall file with the appropriate district director the original drawback entry on Customs Form 7573 in the two instances listed below. The district director may require an additional copy for administrative use.

(i) *Certificates of manufacture filed prior to entry.* When the drawback claimant files a certificate of manufacture prior to the filing of the entry, he shall file the entry on Customs Form 7573 and refer to the certificates of manufacture in the entry by the official number instead of describing the particulars of importation and manufacture.

(ii) *Purchase of manufactured articles for exportation.* A purchaser of a completely manufactured article who exports it and claims drawback shall file an entry on Customs Form 7573 accompanied by a certificate of manufacture and delivery on Customs Form 7577, if that certificate is not already on file.

(3) *Filing in two or more regions.* If the drawback entry is filed in a region other than where the certificate of manufacture is on file, the regional commissioner with whom the certificate is on file, after liquidation and at the request of the person filing the certificate or to whom such merchandise was delivered, shall transmit to the regional commissioner where the entry is filed an extract on Customs Form 4537. The extract shall be considered an original certificate for liquidation purposes.

(4) *Two or more shipments.* One entry may cover several shipments.

*(b) Evidence of exportation.*

(1) *Notice of exportation.* When the entry covers exports under section 191.52 of this part, the claimant shall file with the entry one copy of the notice of exportation and the original or a certified copy of the supporting document. For an entry under section 191.54, the claimant shall file with the entry one copy of the notice of exportation.

(2) *Evidence of right to drawback.* The notice of exportation shall show that the merchandise was shipped by the person filing the drawback entry, or shall be endorsed by the person in whose name the merchandise was shipped showing that the person filing the entry is authorized to claim drawback and receive payment.

(3) *Chronological summary of exports.* For exports under section 191.53 of this part, the claimant shall file with the entry one copy of the chronological summary of exports.

(c) *Multiple claimants.*

(1) *Notice of exportation.* Where more than one party claims drawback (e.g., a chemical manufactured under drawback regulations is exported in a container also manufactured under drawback regulations), each drawback claimant shall file a separate notice of exportation describing the component product to which his claim will relate. Each notice shall show the name of the claimant and bear a statement that the claim shall be limited to his respective component product. The exporter shall endorse the notices, as required, to show the respective interests of the claimants. The notice of exportation shall be numbered in accordance with section 191.52(d) of this part.

(2) *Exporter's summary procedure.* Where more than one party claims the drawback (e.g., a chemical manufactured under drawback regulations is exported in a container also manufactured under drawback regulations), and the parties elect to use the exporter's summary procedure, each drawback claimant shall complete and file a chronological summary of exports for the respective component product to which his claim will relate. Each claimant shall identify in the chronological summary the name of the other claimant or claimants and the component product for which each will claim drawback independently.

(d) *Vessels or aircraft.* For drawback under section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), the claimant shall file with the drawback entry a copy of the part of the construction contract showing that the vessel or aircraft was built for foreign account and ownership. In the case of a vessel, except a warship, the claimant also shall file a certificate of clearance for a foreign port and a certified copy of the registry certificate or, in its place, a certificate of the consul of the foreign nation to which the vessel belongs, showing that the vessel has been documented under the flag of that country. No certificates of clearance or foreign documentation shall be required for a warship.

**§ 191.63 Summary of papers filed.**

The claimant may file with the drawback entry a summary, in duplicate, of the papers filed showing the date of application for official documents. When verified, one copy of the summary shall be receipted and returned to the claimant, and the other copy attached to the drawback entry.

**§ 191.64 Supplemental filing.**

With the permission of the regional commissioner, a claimant may amend or correct a drawback entry or file a timely supplemental entry. Corrections or amendments permitted shall be certified by the appropriate parties.

**§ 191.65 Certificates of delivery.**

(a) *When required.* If the merchandise used in the manufacture of the exported articles was not imported by the manufacturer of the articles, no drawback shall be allowed until the drawback claimant files with the regional commissioner where the claim is to be liquidated a certificate of delivery in duplicate on Customs Form 7543, or official evidence of the existence of the certificate filed at another place. The certificate of delivery must describe the merchandise delivered, tracing it from the custody of the importer to the custody of the manufacturer. If the certificate of delivery covers only one importation, the manufacturer may refer to it in his certificate of manufacture rather than describe the importation.

(b) *Intermediate transfer.* If the merchandise was not delivered directly from the importer to the manufacturer, each intermediate transfer shall be described on the certificate of delivery certified by the person through whose possession the merchandise passed.

(c) *Consignee as importer.* When the consignee named in an entry summary declares another person to be the actual owner, the consignee shall be considered the importer for drawback purposes, even though the consignee files an owner's declaration under section 485(d), Tariff Act of 1930, as amended (19 U.S.C. 1485(d)). The drawback claimant shall file a certificate of delivery showing the initial transfer from the consignee to the person to whom delivery was made.

(d) *Warehouse transfers and withdrawals.* The person in whose name merchandise is withdrawn from a bonded warehouse shall be considered the importer for drawback purposes. No certificate of delivery is required covering prior transfers of merchandise while in a bonded warehouse.

**§ 191.66 Certificate of manufacture and delivery.**

(a) *When required.* If the imported merchandise has undergone some process of manufacture before delivery, and the wholly or partially manufactured article thereafter is used in the manufacture of some other article for exportation, or when completely manufactured articles are purchased for exportation without further manipulation, the drawback claimant, whether the manufacturer or the exporter, shall file a certificate of manufacture and delivery on Customs Form 7577.

(b) *Subcontractors.* (1) If a subcontractor performs work, which for drawback purposes does not constitute a manufacture or production, with the use of merchandise the principal plans to make the subject of a drawback claim, and (2) if there is a problem in identifying the merchandise the subcontractor returns to the principal from the merchandise received from the principal, the subcontractor shall complete a certificate of manufacture and delivery. If there is no problem of identification, the subcontractor shall complete only a certificate of delivery.

(c) *Identifying certificates of manufacture and delivery.* Drawback claimants may identify the relevant certificates of manufacture and delivery on drawback entries covering the exported articles rather than describe the importation and manufacture.

(d) *Certification of intermediate transfer.* Any intermediate transfer of manufactured articles shall be certified on the certificate of manufacture and delivery.

(e) *Entry filed at place other than where certificate filed.* If the drawback entry is filed at a place other than where the certificate of manufacture and delivery is on file, the regional commissioner may transmit to the place where the drawback entry is filed an extract on Customs Form 4537.

(f) *Special requirements for agency transactions.*

(1) *Requirement of agent.* Each agent manufacturer who conducts operations under section 191.34 of this part shall furnish the principal for whom he processed merchandise a certificate of manufacture and delivery on Customs Form 7577-B completing only the portion applicable to the operation so conducted, relating to the substituted or designated merchandise, and identifying the owner of the articles for whom processing was conducted.

(2) *Requirement of principal.* The principal for whom processing was conducted under section 191.34 of this part shall complete and file a certificate of manufacture or drawback entry, as appropriate, and attach to it the certificates from his agent or agents.

#### § 191.67 Landing certificates.

(a) *When required.* A landing certificate shall be required:

(1) Whenever the district director at the port of exportation or the port where the drawback entry is filed, or the regional commissioner for the region where the drawback claim is liquidated, has reason to believe that the shipment is not a bona fide exportation;

(2) When Customs Headquarters specifically directs that the landing certificate be produced;

(3) When law or regulation otherwise requires a landing certificate; or

(4) For every aircraft which departs from the United States under its own power if drawback is claimed on the aircraft or any part thereof. A landing certificate for aircraft shall show the exact time of landing in the foreign country and describe the aircraft or parts thereof on which drawback is claimed in sufficient detail to enable Customs officers to identify them with the documentation used to establish exportation, such as the notice of exportation, bill of lading, air waybill, or other approved documentation.

(b) *Time of filing.* Any required landing certificate shall be furnished prior to the liquidation of the entry.

(c) *Signature.* Any required landing certificate shall be signed by a revenue officer of the foreign country to which the merchandise is exported, unless it is shown that the country has no Customs ad-

ministration, in which case the landing certificate may be signed by the consignee or the carrier's agent at the place of unloading.

(d) *Notice of requirement.* Customs shall provide notice in writing to an exporter or his agent required to supply a landing certificate pursuant to paragraphs (a)(1) or (a)(2) of this section. The exporter or his agent shall file the landing certificate within 1 year from the date of the notice unless Customs Headquarters grants an extension.

(e) *Inability to produce landing certificates.*

(1) When a landing certificate is required and cannot be produced, an application for its waiver may be made to the regional commissioner through the district director within the time required for filing the certificate, accompanied by such evidence of clearance and landing abroad as may be available. The application shall be granted if the regional commissioner is satisfied by the evidence submitted that the merchandise has been exported. If the regional commissioner is not so satisfied, he shall transmit the application and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(2) *Required by the district director.* When a landing certificate is required by a district director under paragraph (a)(1) of this section, he may accept other satisfactory evidence of foreign landing in place of the certificate.

#### SUBPART G—PAYMENT AND LIQUIDATION OF DRAWBACK CLAIMS

##### § 191.71 Liquidation.

(a) *Time of liquidation.* Drawback claims may be liquidated after:

(1) Final liquidation of the import entry; or

(2) Deposit of estimated duties on the imported merchandise and before liquidation of the import entry.

(b) *Claims based on estimated duties.*

(1) *Eligibility.* Drawback may be paid on estimated duties if the import entry has not been liquidated and the drawback claimant and any other party responsible for the payment of liquidated import duties each files a written request for payment of each drawback entry, waiving any right to payment or refund under other provisions of law.

(2) *Adjustment.*

(i) *Drawback entry.* A drawback claim, once liquidated on the basis of estimated duties, thereafter shall not be adjusted by reason of a subsequent liquidation of an import entry.

(ii) *Import entry.* However, if final liquidation of the import entry discloses that the total amount of import duty is different from the total estimated duties deposited, the party responsible for the payment of liquidated duties, as applicable, shall be liable for 1 percent of all increased duties found to be due on that portion of merchandise recorded on the drawback entry or shall be entitled to a



refund of 1 percent of all excess duties found to be paid on that portion of the merchandise recorded on the drawback entry.

(c) *Claims based on liquidated duties.* Drawback shall be based on the final liquidated duties paid that have been made final by the importer's written acceptance of the liquidation or by operation of law.

(d) *Liquidation procedure.* When the drawback claim has been completed by the filing of the entry and other necessary documents, and exportation of the articles has been established, the regional commissioner shall determine drawback due on the basis of the complete drawback claim and the drawback contract.

(e) *Distribution and value of manipulated merchandise.*

(1) *Distribution.* Where two or more products result from the manipulation of imported merchandise, drawback shall be distributed to the several products in accordance with their relative values at the time of separation.

(2) *Value.* The values to be used in computing the distribution of drawback where two or more products result from the manipulation of the imported merchandise, pursuant to section 313(a), Tariff Act of 1930, as amended (19 U.S.C. 1313(a)), shall be the market values unless the drawback contract provides otherwise.

(f) *Payment.* The regional commissioner shall certify the amount of drawback due to the person making entry or other person authorized to receive payment under section 191.73 of this subpart.

#### **§ 191.72 Accelerated payment.**

(a) *Eligibility.* A drawback claimant not delinquent or otherwise remiss in transactions with Customs is eligible for accelerated payment of drawback on claims which are properly prepared and fully completed in accordance with Subpart F of this part.

(b) *Submission with request.* A claimant who requests accelerated payment of a claim shall file with the claim a computation of the amount due, and, for approval by the regional commissioner, a bond on either Customs Form 7609 or 7611, guaranteeing the refund of any excess payment. In place of filing Customs Form 7609 or 7611, a claimant may provide appropriate coverage by executing an approved rider on a General Term Bond for Entry of Merchandise, Customs Form 7595, at the time of filing Customs Form 7595. When a rider is to be designated on Customs Form 7595, the amount of the bond shall be increased by the estimated amount of accelerated drawback to be claimed during the term of the bond. If actual accelerated drawback claims exceed the estimated amount of accelerated drawback, the regional commissioner shall require additional bond coverage.

(c) *Approval.* A regional commissioner who approves the claim for accelerated payment shall certify it for payment within 3 weeks after filing. After liquidation, the regional commissioner shall certify payment of any amount due or demand a refund of any excess amount paid.

(d) *Repeated erroneous computation of drawback claims.* The right to receive accelerated payment will be denied to claimants who repeatedly file claims in excess of the amount due.

#### § 191.73 Person entitled to receive drawback.

(a) *Exporter; reservation by manufacturer or producer.* The person named as exporter on the notice of exportation or in bill of lading, air waybill, freight waybill, Canadian Customs manifest, cargo manifest, or certified copies of these documents, shall be deemed to be the exporter and entitled to drawback, unless at the time of sale or consignment of the articles, the manufacturer or producer shall reserve the right to claim drawback. The manufacturer or producer who reserves this right may claim drawback, and he shall receive payment upon production of satisfactory evidence that the reservation was made with the knowledge and consent of the exporter.

(b) *Agent or person designated to receive drawback.* Drawback may be paid to the agent of the manufacturer, producer, or exporter, or to the person the manufacturer, producer, exporter, or agent directs in writing to receive drawback payment.

#### SUBPART H—INTERNAL-REVENUE TAX ON FLAVORING EXTRACTS AND MEDICINAL OR TOILET PREPARATIONS (INCLUDING PERFUMERY) MANUFACTURED FROM DOMESTIC TAX-PAID ALCOHOL

#### § 191.81 Drawback allowance.

(a) *Drawback.* Section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), provides for drawback of internal-revenue tax upon the exportation of flavoring extracts and medicinal or toilet preparations (including perfumery) manufactured or produced in the United States in part from the domestic tax-paid alcohol (see section 191.4(a)(4)).

(b) *Shipment to Puerto Rico, the Virgin Islands, Guam, and American Samoa.* Drawback of internal-revenue tax on articles manufactured or produced under this subpart and shipped to Puerto Rico, the Virgin Islands, Guam, or American Samoa shall be allowed in accordance with section 7653(c) of the Internal Revenue Code (26 U.S.C. 7653(c)). However, there is no authority of law for the allowance of drawback of internal-revenue tax on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced in the United States and shipped to Wake Island, Midway Islands, Kingman Reef, Canton Island, En-derbury Island, Johnston Island, or Palmyra Island.

#### § 191.82 Procedure.

(a) *General.* Other provisions of this part relating to direct identification drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Manufacturing record.* The manufacturer of flavoring extracts or medicinal or toilet preparations on which drawback is claimed

shall record the products manufactured, the quantity of waste, if any, and a full description of the alcohol. These records shall be available at all times for inspection by Customs officers.

(c) *Additional information required on the manufacturer's proposal.* The manufacturer's proposal shall state the quantity of domestic tax-paid alcohol contained in each product on which drawback is claimed.

(d) *Variance in alcohol content.*

(1) *Variance of more than 5 percent.* If the percentage of alcohol contained in a medicinal preparation, flavoring extract, or toilet preparation varies by more than 5 percent from the percentage of alcohol in the total volume of the exported product as stated in a previously approved proposal, the manufacturer shall apply for a new drawback contract pursuant to section 191.25 of this part. If the variation differs from a previously filed schedule, the manufacturer shall file a new schedule incorporating the change.

(2) *Variance of 5 percent or less.* Variances of 5 percent less of the volume of the product shall be reported to the regional commissioner where the drawback entries are liquidated. The regional commissioner may allow drawback without specific authorization from Customs Headquarters.

(e) *Customs forms.* The following Customs forms shall be used in place of the corresponding forms used in the case of articles manufactured with the use of imported merchandise:

(1) Drawback Entry for Tax-Paid Alcohol, Customs Form 7579.

(2) Certificate of Manufacture and Delivery, Customs Form 7585.

(3) Certificate of Delivery of Alcohol Tax-Paid, Customs Form 7545.

(f) *Time period for completing claims.* The 3-year period for the completion of drawback claims prescribed in section 191.61 of this part shall be applicable to claims for drawback under this subpart.

(g) *Filing of drawback entries on duty-paid imported merchandise and tax-paid alcohol.* When the drawback entry covers duty-paid imported merchandise in addition to tax-paid alcohol, the claimant shall file one set of entries for drawback of Customs duty and another set for drawback of internal-revenue tax.

(h) *Description of the alcohol.* The description of the alcohol stated in the entry may be obtained from the description on the package containing the tax-paid alcohol.

### **§ 191.83 Additional requirements.**

(a) *Manufacturer claims domestic drawback.* In the case of medicinal preparations and flavoring extracts, the claimant shall file with the drawback entry, or endorse on the entry or certificate of manufacture, a declaration of the manufacturer showing whether a claim has been or will be filed by the manufacturer with the regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for domestic drawback on alcohol under sections

5131, 5132, 5133, and 5134, Internal Revenue Code, as amended (26 U.S.C. 5131, 5132, 5133, and 5134).

(b) *Manufacturer does not claim domestic drawback.*

(1) *Submission of statement.* If no claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback on medicinal preparations or flavoring extracts, the manufacturer shall submit a statement, in duplicate, setting forth that fact to the appropriate regional regulatory administrator of the Bureau of Alcohol, Tobacco and Firearms for the region in which the manufacturer's factory is located.

(2) *Contents of the statement.* The statement shall show the:

(i) Quantity and description of the exported products;

(ii) Identity of the alcohol used by serial number of package or tank car;

(iii) Name and registry number of the warehouse from which the alcohol was withdrawn;

(iv) Date of withdrawal;

(v) Serial number of the tax-paid stamp or certificate, if any; and

(vi) Customs region where the drawback claim will be filed.

(3) *Verification of the statement.* The regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms shall verify receipt of this statement, forward the original of the document to the Customs region designated, and retain the copy.

#### **§ 191.84 Alcohol, Tobacco and Firearms certificates.**

(a) *Request.* The drawback claimant or manufacturer shall file a written request with the regional regulatory administrator, Bureau of Alcohol, Tobacco and Firearms in whose region the alcohol used in the manufacture was withdrawn requesting him to provide the regional commissioner of Customs, with whom the drawback claim will be processed, a tax-paid certificate on Alcohol, Tobacco and Firearms Form 5100.4 (Certificate of Tax-Paid Alcohol).

(b) *Contents.* The request shall state the:

(1) Quantity of alcohol in taxable gallons;

(2) Serial number of each package;

(3) Serial number of the stamp, if any;

(4) Amount of tax paid on the alcohol;

(5) Name, registry number, and location of the warehouse;

(6) Date of withdrawal;

(7) Name of the manufacturer using the alcohol in producing the exported articles;

(8) Address of the manufacturer and his manufacturing plant; and

(9) Customs region where the drawback claim will be processed.

(c) *Request accompanied by Customs Form 7545.* If the request is accompanied by Customs Form 7545 showing any of the information required by paragraph (b) of this section, that information need not be repeated in the request.

(d) *Extracts of Alcohol, Tobacco and Firearms certificates.* If a certification of any portion of the alcohol described in the Bureau of Alcohol, Tobacco and Firearms Form 5100.4 is required for liquidation of drawback entries processed in another region, the regional commissioner of Customs, on written application of the person who requested its issuance, shall transmit a copy of the extract from the certificate for use at that regional office. The regional commissioner shall note that the copy of the extract was prepared and transmitted.

**§ 191.85 Liquidation.**

The regional commissioner shall determine the amount of drawback due by reference to the certificate of manufacture and the drawback contract under which the drawback claimed is allowable.

**§ 191.86 Amount of drawback.**

(a) *Claim filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration required by section 191.83 of this part shows that a claim has been or will be filed with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, drawback under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)), shall be limited to the difference between the amount of tax paid and the amount of domestic drawback claimed.

(b) *Claim not filed with Bureau of Alcohol, Tobacco and Firearms.* If the declaration and verified statement required by section 191.83 show that no claim has been or will be filed by the manufacturer with the Bureau of Alcohol, Tobacco and Firearms for domestic drawback, the drawback shall be the full amount of the tax on the alcohol used.

(c) *No deduction of 1 percent.* No deduction of 1 percent shall be made in drawback claims under section 313(d), Tariff Act of 1930, as amended (19 U.S.C. 1313(d)).

(d) *Payment.* The drawback due shall be paid in accordance with section 191.71(f) of this part.

**SUBPART I—SUPPLIES FOR CERTAIN VESSELS AND AIRCRAFT**

**§ 191.91 Drawback allowance.**

Section 309, Tariff Act of 1930, as amended (19 U.S.C. 1309), provides for drawback on articles laden as supplies on certain vessels or aircraft of the United States or as supplies including equipment upon, or used in the maintenance or repair of, certain foreign vessels or aircraft (see section 191.4(a)(10)).

**§ 191.92 Procedure.**

(a) *General.* Other provisions of this part apply to claims filed under this subpart insofar as applicable and not inconsistent with the provisions of this subpart.

(b) *Customs forms.* Drawback notices of lading on Customs Form 7514 shall be filed in place of notices of exportation on Customs Form 7511 or other evidence of exportation (see section 191.93).

**§ 191.93 Drawback notice of lading.**

(a) *Number of copies and place of filing.* The notice of lading on Customs Form 7514 shall be filed in quadruplicate with the district director at the port of lading.

(b) *Time of filing.* The drawback notice of lading may be filed either before or after lading of the articles. If filed after lading, the notice shall be filed within 3 years after exportation of the articles.

(c) *Contents of notice.* The notice of lading shall show:

(1) Name of the vessel or identity of the aircraft on which articles were or are to be laden;

(2) Number and kind of packages and their marks and numbers;

(3) Description of the articles and their weight (net), gauge, measure, or number;

(4) Name of the exporter; and

(5) Customs region where the drawback entry is to be filed.

(d) *Assignment of numbers and return of one copy.* The district director shall assign a number to each notice of lading and return one copy to the exporter for delivery to the master or authorized officer of the vessel or aircraft.

(e) *Declaration.*

(1) *Requirement.* The master or an authorized officer of the vessel or aircraft, or a representative of the owner or operator of the vessel or aircraft having knowledge of the facts and holding a Customs power of attorney shall complete the section of the drawback notice entitled "Declaration of Master or Other Officer," which was delivered by the exporter.

(2) *Procedure if notice filed before lading.* If the notice is filed before lading of the articles, the declaration must be completed on the copy of the numbered drawback notice that was filed with the district director and returned to the exporter for this purpose.

(3) *Procedure if notice filed after lading.* If the drawback notice is filed after lading of the articles, the drawback claimant may file a separate document containing the declaration required on the Drawback Notice, Customs Form 7514.

(4) *Filing.* The drawback claimant shall file with the district director both the drawback entry and the drawback notice or separate document containing the declaration of the master or other officer or representative.

(f) *Information concerning class or trade.* Information about the class of business or trade of a vessel or aircraft is required to be furnished in support of the drawback entry if the vessel or aircraft is American.

(g) *Vessel or aircraft required to clear or obtain a permit to proceed.* After the vessel or aircraft has cleared or obtained a permit to proceed, the district director at the port of lading shall complete

the section entitled "Customs Certification" on one of the copies of the notice of lading. He shall return the completed copy and one other copy to the exporter or the person designated by the exporter for subsequent filing with the drawback entry.

(h) *Vessel or aircraft not required to clear or obtain a permit to proceed.* If the vessel or aircraft is not required to clear or obtain a permit to proceed to another port, the district director shall return to the exporter or the person designated by the exporter two copies of the notice with a statement of the facts in this case for subsequent filing with the drawback entry. The drawback claimant shall file with his claim an itinerary of the vessel or aircraft for the immediate voyage or flight showing that the vessel or aircraft is engaged in a class of business or trade which makes it eligible for drawback.

(i) *Articles laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.* The regional commissioner where the drawback claim is filed shall require a declaration or other evidence showing to his satisfaction that articles have been laden or installed on aircraft as equipment or used in the maintenance or repair of aircraft.

(j) *Fuel laden on vessels or aircraft as supplies.*

(1) *Composite notice of lading.* In the case of fuel laden on vessels or aircraft as supplies, the drawback claimant may file with the regional commissioner a composite notice of lading on the reverse of Customs Form 7514, for each calendar month describing all of the drawback claimant's deliveries of fuel supplies during the one calendar month at a single port or airport to all vessels or airplanes of one vessel owner or operator or airline.

(2) *Contents of composite notice.* The composite notice shall show for each voyage or flight, either on the reverse of Customs Form 7514 or on a continuation sheet:

- (i) Identity of the vessel or aircraft;
- (ii) Description of the fuel supplies laden;
- (iii) Quantity laden; and
- (iv) Date of lading.

(3) *Declaration of owner or operator.* A vessel or airline representative having knowledge of the facts and holding a Customs power of attorney shall complete the section "Declaration of Master or Other Officer" on Customs Form 7514.

(4) *District Director's certification.* The district director shall note the clearance of the vessel or aircraft at the end of each line relating to a voyage or flight.

(k) *Desire to land articles covered by notice of lading.* The master of the vessel or commander of the aircraft desiring to land in the United States articles covered by a notice of lading shall apply for a permit to land those articles under Customs supervision. All articles landed, except those transferred under the original notice of lading to another vessel or aircraft entitled to drawback, shall be



considered imported merchandise for the purpose of section 309(c), Tariff Act of 1930, as amended (19 U.S.C. 1309(c)).

#### **§ 191.94 Drawback entry.**

The drawback entry shall be filed on Customs Form 7573 or 7575, as applicable, modified to read "lade" (or "use"), "laden" (or "used"), or "lading" (or "using") instead of "export," "exported," or "exporting." The "Declaration of Exportation" shall be amended to read as follows:

#### **Declaration of Lading or Use**

I, \_\_\_\_\_ (member of firm, officer representing corporation, agent, or attorney) of \_\_\_\_\_, declare that according to my knowledge and belief, the particulars of lading (or use) stated in this entry, the notices of lading, and receipts are correct, and that the merchandise is not to be relanded in the United States or any of its possessions, but is to be (has been) used on the vessels or aircraft so named for (state specifically, such as supplies, equipment, maintenance, or repair), \_\_\_\_\_ as specified in section 309, Tariff Act of 1930, as amended.

Date \_\_\_\_\_ 19\_\_\_\_.

(Shipper or agent) \_\_\_\_\_.

(Sec. 309, 46 Stat. 690, as amended; 19 U.S.C. 1309)

#### **SUBPART J—MEATS CURED WITH IMPORTED SALT**

#### **§ 191.101 Drawback allowance.**

Section 313(f), Tariff Act of 1930, as amended (19 U.S.C. 1313(f)), provides for the allowance of drawback upon the exportation of meats cured with imported salt (see section 191.4(a)(6)).

#### **§ 191.102 Procedure.**

(a) *General.* Other provisions of this part relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

(b) *Customs form.* The forms used for other drawback claims shall be used and modified to show that the claim is being made for refund of duties paid on salt used in curing meats.

#### **§ 191.103 Refund of duties.**

Drawback shall be refunded in aggregate amounts of not less than \$100 and shall not be subject to the retention of 1 percent of duties paid.



SUBPART K—MATERIALS FOR CONSTRUCTION AND EQUIPMENT OF VESSELS AND AIRCRAFT BUILT FOR FOREIGN ACCOUNT AND OWNERSHIP

**§ 191.111 Drawback allowance.**

Section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), provides for drawback on imported materials used in the construction and equipment of vessels and aircraft built for foreign account and ownership, or for the government of any foreign country, notwithstanding that these vessels or aircraft may not be exported within the strict meaning of the term (see section 191.4(a)(7)).

**§ 191.112 Procedure.**

Other provisions of this part relating to direct identification drawback shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

**§ 191.113 Explanation of terms.**

(a) *Materials.* Section 313(g), Tariff Act of 1930, as amended (19 U.S.C. 1313(g)), applies only to materials used in the original construction and equipment of vessels and aircraft and not to materials used for alteration or repair, or to materials not required for safe operation of the vessel or aircraft.

(c) *Foreign account and ownership.* Foreign account and ownership, as used in section 313(g), Tariff Act of 1930, as amended, means only vessels or aircraft built and equipped for the account of an owner or owners residing in a foreign country and having a bona fide intention that the vessel or aircraft, when completed, shall be owned and operated under the flag of a foreign country.

SUBPART L—FOREIGN-BUILT JET AIRCRAFT ENGINES PROCESSED IN THE UNITED STATES

**§ 191.121 Drawback allowance.**

Section 313(h), Tariff Act of 1930, as amended (19 U.S.C. 1313(h)), provides for drawback on the exportation of jet aircraft engines manufactured or produced abroad that have been overhauled, repaired, rebuilt, or reconditioned in the United States with the use of imported merchandise, including parts (see section 191.4(a)(8)).

**§ 191.122 Procedure.**

Other provisions of this part shall apply to claims for drawback filed under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart.

**§ 191.123 Drawback entry.**

(a) *Filing of entry.* Drawback entries covering these foreign-built jet aircraft engines shall be filed on Customs Form 7575-A, appropriately modified, to show that the entry covers jet aircraft engines processed under section 313(h), Tariff Act of 1930, as amended.

(b) *Contents of entry.* The entry shall show the country in which each engine was manufactured and describe the processing performed thereon in the United States.

#### § 191.124 Refund of duties.

Drawback shall be refunded in aggregate amounts of not less than \$100, and shall not be subject to the deduction of 1 percent of duties paid.

#### SUBPART M—MERCHANDISE EXPORTED FROM CONTINUOUS CUSTOMS CUSTODY

#### § 191.131 Drawback allowance.

(a) *General.* Section 557(a), Tariff Act of 1930, as amended (19 U.S.C. 1557(a)), provides for drawback on the exportation, or the shipment to the Virgin Islands, American Samoa, Wake Island, Midway Islands, Kingman Reef, Johnston Island, or Guam, of duty-paid merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation (see section 191.4(a)(11)).

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

(b) *Guantanamo Bay.* Guantanamo Bay Naval Station shall be considered foreign territory for drawback purposes under this subpart. However, imported merchandise which has remained continuously in bonded warehouse or otherwise in Customs custody since importation is not entitled to drawback of duty when shipped to Puerto Rico, Canton Island, Enderbury Island, or Palmyra Island.

#### § 191.132 Merchandise released from Customs custody.

No remission, refund, abatement, or drawback of duty shall be allowed because of the exportation of any merchandise after its release from Government custody, except in the following cases:

(a) When articles are exported on which drawback is expressly provided for by law;

(b) When prohibited articles have been regularly entered in good faith and are subsequently exported or destroyed pursuant to statute and regulations prescribed by the Secretary of the Treasury; or

(c) When articles entered under bond are destroyed within the bonded period, as provided in section 557(c), Tariff Act of 1930, as amended (19 U.S.C. 1557(c)), or destroyed within the bonded period by death, accidental fire, or other casualty, and proof of destruction is furnished to the satisfaction of the Secretary of the Treasury, in which case any accrued duties shall be remitted or refunded and any condition in the bond that the articles shall be exported shall be deemed to have been satisfied (see 19 U.S.C. 1558).

#### § 191.133 Continuous Customs custody.

(a) *Merchandise released under an importer's bond and returned.* Merchandise released to an importer under a bond prescribed by

section 142.4 of this chapter and later returned to the public stores upon requisition of the district director shall not be deemed to be in the continuous custody of Customs officers.

(b) *Merchandise released under a temporary importation bond.* Merchandise released under a temporary importation bond as provided for in Schedule 8, Part 5, Subpart C, Tariff Schedules of the United States (19 U.S.C. 1202), shall not be deemed to be in the continuous custody of Customs officers.

(c) *Merchandise released from warehouse.* Customs custody over merchandise entered for warehouse shall be deemed to cease when the Customs warehouse officer with whom a delivery permit has been lodged has released the merchandise to or upon the order of the proprietor of the warehouse as provided in sections 19.6 and 144.38(e) of this chapter.

(d) *Merchandise not warehoused, examined elsewhere than in public stores.*

(1) *General rule.* Except as stated in paragraph (d)(2) of this section, merchandise examined elsewhere than at the public stores, in accordance with the provisions of section 151.7 of this chapter, shall be considered released from Customs custody upon completion of final examination for appraisement.

(2) *Merchandise upon the wharf.* Merchandise which remains on the wharf by permission of the district director shall be considered to be in Customs custody, but this custody shall be deemed to cease when the Customs officer in charge accepts the permit and has no other duties to perform relating to the merchandise, such as measuring, weighing or gauging.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

#### **§ 191.134 Filing the entry.**

(a) *Direct export.* At least 6 hours before lading the merchandise on which drawback is claimed, the importer or the agent designated by him in writing shall file with the district director a direct export entry on Customs Form 7512 in duplicate.

(b) *Merchandise transported to another port for exportation.* The importer of merchandise to be transported to another port for exportation shall file in triplicate with the district director an entry naming the transporting conveyance, route, and port of exit. The district director shall certify one copy and forward it to the district director at the port of exit. A bonded carrier shall transport the merchandise in accordance with the applicable regulations. Manifests shall be prepared and filed in the manner prescribed in section 144.37 of this chapter.

#### **§ 191.135 Merchandise withdrawn from warehouse for exportation.**

The regulations in Part 18 of this chapter concerning the supervision of lading and certification of exportation of merchandise

withdrawn from warehouse for exportation without payment of duty shall be followed to the extent applicable.

**§ 191.136 Bill of lading.**

(a) *Filing.* In order to complete the claim, a bill of lading covering the merchandise described in the export entry shall be filed within 6 months after the merchandise is exported.

(b) *Contents.* The bill of lading shall show either that the merchandise was shipped by the person making the claim or bear an endorsement of the person in whose name the merchandise was shipped showing that the person making claim is authorized to receive the drawback.

(c) *Limitation of the bill of lading.* The terms of the bill of lading may limit and define its use by stating that it is for Customs purposes only and not negotiable.

(d) *Inability to produce bill of lading.* When a required bill of lading cannot be produced, the person making the drawback entry may request the regional commissioner, through the district director, within the time required for the filing of the bill of lading, to accept a statement setting forth the cause of failure to produce the bill of lading and such evidence of exportation and of his right to make the drawback entry as may be available. The request shall be granted if the regional commissioner is satisfied by the evidence submitted that the failure to produce the bill of lading is justified, that the merchandise has been exported, and that the person making the drawback entry has the right to do so. If the regional commissioner is not so satisfied, he shall transmit the request and its accompanying evidence to Headquarters, U.S. Customs Service, for final determination.

(e) *Extracts of bills of lading.* Regional commissioners may issue extracts from bills of lading filed with drawback entries.

**§ 191.137 Landing certificates**

When required, a landing certificate shall be filed within the time prescribed in section 191.67 of this part.

(Sec. 557, 46 Stat. 744, as amended, 19 U.S.C. 1557)

**§ 191.138 Procedures.**

When the drawback entry has been completed and the bill of lading filed, together with the landing certificate, if required, the reports of inspection and lading made, and the clearance of the exporting conveyance established by the record of clearance in the case of direct exportation or by certificate in the case of transportation and exportation, the regional commissioner shall verify the importation by referring to the import records to ascertain the amount of duty paid on the merchandise exported. To the extent appropriate and not inconsistent with the provisions of this subpart, drawback claims shall be liquidated in accordance with the provisions of section 191.61 of this part.

**§ 191.139 Amount of drawback.**

Drawback due under this subpart shall not be subject to the retention of 1 percent.

(Sec. 557, 46 Stat. 744, as amended; 19 U.S.C. 1557)

**SUBPART N—SAME CONDITION DRAWBACK****§ 191.141 Drawback.**

(a) *Allowance.* Section 313(j), Tariff Act of 1930, as amended (19 U.S.C. 1313(j)), provides for drawback on imported merchandise exported in the same condition as when imported, or destroyed under Customs supervision and not used within the United States before such exportation or destruction (see section 191.4(a)(9)).

(b) *Time of exportation or destruction.* Drawback shall be allowed on imported merchandise if exported or destroyed under section 191.141 before the close of the 3-year period beginning on the date of importation.

(c) *Use.* The performing of incidental operations (including, but not limited to, testing, cleaning, repacking, and inspecting) on the imported merchandise itself, not amounting to manufacture or production for drawback purposes shall not be treated as a use of that merchandise for purposes of applying section 191.141.

**§ 191.142 Filing and documentation prior to exportation.**

(a) *Filing.* An exporter-claimant who desires to export merchandise with drawback under 19 U.S.C. 1313(j) shall file with any district director a completed Customs Form 7539. The exporter-claimant shall also furnish a copy of the import entry or identify the import entry, date of entry, and port of entry under which the merchandise was imported into the United States. He shall certify that the merchandise is in the same condition as when imported and not used within the United States before such exportation. Transfers shall be documented by the use of certificates of delivery (see section 191.65).

(b) *Time of filing.* The completed Customs Form 7539 shall be filed with the district director at least 12 working days prior to exportation of the merchandise, unless the district director approves a shorter filing period.

(c) *Examination.*

(1) *Decision to examine.* Within 10 working days after Customs Form 7539 is filed, the district director shall notify the exporter-claimant whether or not he wishes to examine the merchandise prior to exportation.

(2) *Time and place of examination.* If the district director determines to examine the merchandise, he shall notify the exporter-claimant of the place of the examination. The district director shall complete the examination within 10 working days after the filing

of Customs Form 7539, unless failure to examine is caused by the exporter-claimant.

(d) *Exportation.*

(1) *No examination required.* The exporter-claimant may export the merchandise without Customs supervision after being notified by the district director that no examination is necessary.

(2) *When examination is required.* If the district director determines to examine the merchandise, the exporter-claimant may export the merchandise after the examination is completed. In the discretion of the district director, merchandise to be exported after examination may be exported under Customs supervision.

**§ 191.143 Completion of drawback entry for exported merchandise.**

Within 3 months after exportation of merchandise under section 191.142, an exporter-claimant shall complete his drawback entry by filing with the same district director who received Customs Form 7539 evidence of exportation under the procedures described in section 191.52 (uncertified notice of exportation) or section 191.54 (certified notice of exportation by mail) of this part.

**§ 191.144 Alternative procedure for exported merchandise.**

In place of the procedures set forth in sections 191.142 and 191.143, an exporter-claimant may apply with the regional commissioner, or the district director, if authority has been delegated to that official by the regional commissioner, for permission to use the exporter's summary procedure (see section 191.53). If the request is approved, the exporter-claimant shall file a completed drawback entry on Customs Form 7539 no later than 3 months after exportation. When this alternative procedure is used, no prior notice of exportation, examination or Customs supervision of the exportation is required.

**§ 191.145 General.**

The provisions relating to direct identification drawback shall apply to claims for drawback under this subpart insofar as applicable to and not inconsistent with the provisions of this subpart. Specifically, sections 191.22 (b) and (c) are applicable to drawback under 19 U.S.C. 1313(j).

**§ 191.146 Drawback on destroyed merchandise.**

(a) *Procedure.* A claimant desiring to destroy merchandise to collect drawback under same condition drawback shall file with a district director a completed Customs Form 7539. The claimant also shall furnish a copy of the import entry or identify the import entry under which the merchandise was imported into the United States. He shall certify that the merchandise is in the same condition as when imported and not used within the United States before such destruction. The district director shall determine the

time and place for destruction. Destruction shall be under Customs supervision.

(b) *Completion of drawback entry.* After destruction, the claimant and district director or his designee who witnessed destruction shall certify on Customs Form 7539 or an attachment thereto the time and place of destruction.

**§ 191.147 Liquidation of the drawback claim.**

(a) Entries shall be liquidated or reliquidated in the region or districts as determined by the regional commissioner.

(b) *Denial of drawback entry.* If the claim is denied, the claimant shall be notified in accordance with sections 159.9 and 159.10 of this chapter.

**§ 191.148 Merchandise not conforming to sample or specifications or shipped without the consent of the consignee.**

(a) *General.*

(1) Section 313(c), Tariff Act of 1930, as amended (19 U.S.C. 1313(c)), provides for drawback upon the exportation of imported merchandise not conforming to sample or specifications or shipped without the consent of the consignee. The merchandise must be returned to Customs custody for exportation within 90 days after release from Customs custody unless Customs authorizes a longer period (see section 191.4(a)(3)).

(2) Drawback under this section is considered to be a limited form of same condition drawback as it relates to the exportation of merchandise (but not destruction of merchandise).

(b) *Procedure.*

(1) The exporter-claimant who desires to export merchandise claimed not to conform to sample or specifications, or to have been shipped to him without his consent, shall file with any district director a drawback entry on Customs Form 7539.

(2) The exporter-claimant shall also submit documentation to establish that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(3) The district director shall approve the place of delivery of the merchandise if he is satisfied that the merchandise does not conform to sample or specifications or was shipped without the consent of the consignee.

(4) The exporter-claimant shall return the merchandise to Customs custody within 90 days after the date the merchandise was originally released from Customs custody unless an extension of time is specifically authorized in writing by the district director or other appropriate Customs official. Reasonable extensions of time will be granted if the failure to comply with the 90 day provision is beyond the control of the applicant. Drawback shall be denied on merchandise returned to Customs custody after the authorized time period, including any extension.



(5) The exporter-claimant shall export the merchandise under Customs supervision and establish this fact by filing with the same district director who received Customs Form 7539 evidence of exportation under the procedures described in section 191.52 (uncertified notice of exportation) or section 191.54 (certified notice of exportation by mail) of this part.

(6) Drawback under this section is payable to the exporter-claimant who is the importer of record or the actual owner named in the import entry. The procedures for liquidating a drawback claim shall be the same as under section 191.147.

**SUBPART O—DISTILLED SPIRITS, WINES, OR BEERS WHICH ARE UNMERCHANTABLE OR DO NOT CONFORM TO SAMPLE OR SPECIFICATIONS**

**§ 191.151 Refund of taxes.**

Section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)), provides for the refund, remission, abatement or credit to the importer of internal-revenue taxes paid or determined incident to importation, upon the exportation, or destruction under Customs supervision, of imported distilled spirits, wines, or beer found after entry to be unmerchantable or not to conform to sample or specifications and which are returned to Customs custody (see section 191.4(b)).

**§ 191.152 Procedure.**

The export procedures shall be the same as that provided in section 191.148(b) except as otherwise provided in this subpart.

**§ 191.153 Documentation.**

(a) *Entry.* Customs Form 7539, appropriately modified, shall be used to claim drawback under this subpart.

(b) *Documentation.* The drawback entry for unmerchantable merchandise shall be accompanied by a certificate of the owner setting forth in detail the facts which cause the merchandise to be unmerchantable and any additional proof that the district director requires to establish that the merchandise is unmerchantable.

**§ 191.154 Return to Customs custody.**

There is no time limit for the return to Customs Custody of distilled spirits, wine, or beer subject to refund of taxes under the provisions of this subpart.

**§ 191.155 No exportation by mail.**

Merchandise covered by this subpart shall not be exported by mail.

**§ 191.156 Destruction of merchandise.**

(a) *Action by the importer.* A drawback claimant who proposes to destroy rather than export the distilled spirits, wine, or beer shall state that fact on Customs Form 7539.



(b) *Action by Customs.* Distilled spirits, wine, or beer returned to Customs custody at the place approved by the district director where the drawback entry was filed shall be destroyed under the supervision of the Customs officer who shall certify the destruction on Customs Form 3499.

#### **§ 191.157 Liquidation.**

No deduction of 1 percent of the internal revenue taxes paid or determined shall be made in allowing claims under section 5062(c), Internal Revenue Code, as amended (26 U.S.C. 5062(c)).

#### **§ 191.158 Time limit for exportation or destruction.**

Merchandise not exported or destroyed within 90 days from the date of notification of acceptance of the drawback entry shall be considered unclaimed, unless upon written request by the original applicant, the district director grants an extension of not more than 90 days.

### **SUBPART P—MERCHANDISE TRANSFERRED TO A FOREIGN TRADE ZONE FROM CUSTOMS TERRITORY**

#### **§ 191.161 Drawback allowance.**

The fourth provision of section 3 of the Foreign Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81c) provides for drawback on merchandise transferred to a foreign trade zone from Customs territory for the sole purpose of exportation, destruction (except destruction of distilled spirits, wines, and fermented malt liquors), or storage, provided there is compliance with the regulations of this subpart (see section 191.4(a)(12)).

#### **§ 191.162 Zone-restricted merchandise.**

Merchandise in a foreign trade zone for the purposes specified in section 191.161 shall be given status as zone-restricted merchandise on proper application (see section 146.25 of this chapter).

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

#### **§ 191.163 Articles manufactured or produced in the United States.**

(a) *Procedure for filing documents.* Except for the evidence of exportation procedure, the drawback procedures prescribed in this part shall be followed as applicable to drawback under this subpart on articles manufactured or produced in the United States with the use of imported or substituted merchandise, and on flavoring extracts or medicinal or toilet preparations (including perfumery) manufactured or produced with the use of domestic tax-paid alcohol.

(b) *Notice of transfer.*

(1) *Proof of export.* The notice of zone transfer on Customs Form 7514 shall be in place of the documents under subpart E to establish the exportation.

(2) *Filing procedures.* The notice of transfer, in triplicate, shall be filed with the district director where the foreign trade zone is located prior to the transfer of the articles to the zone, or within 3 years after the transfer of the articles to the zone. A notice filed after the transfer shall state the foreign trade zone lot number.

(3) *Contents of notice.* Each notice of transfer shall show the:

- (i) Number and location of the foreign trade zone;
  - (ii) Number and kind of packages and their marks and numbers;
  - (iii) Description of the articles, including weight (gross and net), gauge, measure, or number;
  - (iv) Name of the transferor; and
  - (v) Place where the drawback entry is to be filed.
- (c) *Action of the district director on the notice of transfer.*

(1) *Assignment of number.* The district director shall assign a number to each notice of transfer, return one copy to the transferor and forward another copy to the Customs officer at the foreign trade zone.

(2) *Certification and forwarding notice to transferor.* After articles have been received in the zone, the Customs officer in charge at the zone shall certify on a copy of the notice of transfer the receipt of the articles and forward the notice to the transferor or the person designated by the transferor.

(d) *Foreign trade zone operator's certificate.* Before filing the certified copy of the notice of transfer with the drawback entry, the transferor shall obtain the foreign trade zone operator's certification of receipt of the articles in the zone (see section 191.164(d)(2)).

(e) *Drawback entries.* Drawback entries shall be filed on Customs Form 7573, 7575, 7579, or 7583, as applicable, appropriately modified, to indicate that the merchandise was transferred to a foreign trade zone. The "Declaration of Exportation" shall be modified as follows:

#### DECLARATION OF TRANSFER TO A FOREIGN TRADE ZONE

I, \_\_\_\_\_ (member of firm, officer representing corporation, agent, or attorney), of \_\_\_\_\_, declare that, to the best of my knowledge and belief the particulars of transfer stated in this entry, the notices of transfer, and receipts are correct, and that the merchandise was transferred to a foreign trade zone for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption.

Date \_\_\_\_\_.

Transferor or agent \_\_\_\_\_.

(Sec. 3, 48 Stat. 999, as amended, 19 U.S.C. 81c)

**§ 191.164 Merchandise transferred from continuous Customs custody.**

(a) *Procedure for filing claims.* The procedure described in Subpart M of this part shall be followed as applicable, to drawback on merchandise transferred to a foreign trade zone from continuous Customs custody.

(b) *Drawback entry.* Prior to the transfer of merchandise from continuous Customs custody to a foreign trade zone, the importer or a person designated in writing by the importer for that purpose shall file with the district director a direct export entry on Customs Form 7512 in duplicate. The district director shall forward one copy of Customs Form 7512 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone, the Customs officer in charge at the zone shall certify on the copy of Customs Form 7512 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certification. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7512 to the district director in place of the bill of lading required by section 191.136 of this part.

(d) *Modification of drawback entry.*

(1) *Indication of transfer.* Customs Form 7512 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7512 as follows, for execution by the foreign trade zone operator:

**CERTIFICATION OF FOREIGN TRADE ZONE OPERATOR**

The merchandise described in this entry was received from \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_; in Foreign Trade Zone No. \_\_\_\_\_, (City and State) \_\_\_\_\_.  
 Exceptions: \_\_\_\_\_.

(Name of operator) \_\_\_\_\_.

By: (Name and title) \_\_\_\_\_.

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7512 as follows:

**TRANSFEROR'S DECLARATION**

I, \_\_\_\_\_ of the firm of \_\_\_\_\_, declare that the merchandise described in this entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was

transferred to Foreign Trade Zone No. ———, located at (City and State) ———, for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, this merchandise is the same in quantity, quality, value, and package, unavoidable wastage and damage excepted, as it was at the time of importation; that no allowance nor reduction of duties has been made for damage or other cause except as specified in this entry; and that no part of the duties paid has been refunded by drawback or otherwise.

Date ———.

(Transferor) ———.

(Sec. 3, Stat. 999, as amended; 19 U.S.C. 81c)

**§ 191.165 Same condition drawback merchandise and merchandise not conforming to sample or specifications or shipped without the consent of the consignee.**

(a) *Procedure for filing claims.* The procedures described in sections 191.141-147, relating to same condition drawback merchandise, and 191.148, relating to rejected merchandise, shall be followed as applicable to drawback under this subpart for same condition drawback merchandise and merchandise not conforming to sample or specifications, or merchandise shipped without the consent of the consignee.

(b) *Drawback entry.* Before transfer of the merchandise to a foreign trade zone, the importer or a person designated in writing by the importer for that purpose shall file with the district director an entry on Customs Form 7539 in duplicate. The district director will forward one copy of Customs Form 7539 to the Customs officer in charge at the zone.

(c) *Certification by Customs and zone operator.* After the merchandise has been received in the zone, the Customs officer in charge at the zone shall certify on the copy of Customs Form 7539 the receipt of the merchandise and forward the form to the transferor or the person designated by the transferor to obtain the foreign trade zone operator's certificate. After obtaining and executing the certifications provided for in paragraph (d) of this section, the transferor shall resubmit Customs Form 7539 to the district director, in place of the bill of lading required by section 191.136 of these regulations.

(d) *Modification of drawback entry.*

(1) *Indication of transfer.* Customs Form 7539 shall be modified to indicate that the merchandise is to be transferred to a foreign trade zone.

(2) *Endorsement.* The transferor or person designated by the transferor shall endorse Customs Form 7539 as follows, for execution by the foreign trade zone operator:

## CERTIFICATION OF FOREIGN TRADE ZONE OPERATOR

The merchandise described in this entry was received from \_\_\_\_\_ on \_\_\_\_\_, 19\_\_\_\_ in Foreign Trade Zone

No. \_\_\_\_\_,  
(City and State) \_\_\_\_\_.

Exceptions: \_\_\_\_\_

(Name of operator) \_\_\_\_\_.

By: (Name and title) \_\_\_\_\_.

(3) *Transferor's declaration.* The transferor shall declare on Customs Form 7539 as follows:

## TRANSFEROR'S DECLARATION

I, \_\_\_\_\_, of the firm of \_\_\_\_\_, declare that the merchandise described in the within entry was duly entered at the customhouse on arrival at this port; that the duties thereon have been paid as specified in this entry; and that it was transferred to Foreign Trade Zone No. \_\_\_\_\_, located at (City and State) \_\_\_\_\_, for the sole purpose of exportation, destruction, or storage, not to be returned to the customs territory of the United States for domestic consumption. I further declare that to the best of my knowledge and belief, that said merchandise is the same in quantity, quality, value, and package as specified in this entry; that no allowance nor reduction in duties has been made; and that no part of the duties paid has been refunded by drawback or otherwise.

Date \_\_\_\_\_.

(Transferor) \_\_\_\_\_.

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

**§ 191.166 Person entitled to receive drawback.**

The person named in the foreign trade zone operator's certification on the notice of transfer or the drawback entry, as applicable, shall be considered to be the transferor. Drawback shall be paid to the transferor or to the person to whom the transferor directs in writing to be paid.

(Sec. 3, 48 Stat. 999, as amended; 19 U.S.C. 81c)

## CONFORMING AMENDMENTS

Parts 7, 10, 113, 145, and 158

To conform the Customs Regulations to the changes made by the proposed revision of Part 22, Customs Regulations, to Part 191,

Customs Regulations, it is proposed to amend Parts 7, 10, 113, 145, and 158 in the following manner:

**PART 7—CUSTOMS RELATIONS WITH INSULAR POSSESSIONS AND  
GUANTANAMO BAY NAVAL STATION**

1. It is proposed to amend section 7.1(a), Customs Regulations, by substituting "sections 191.85 and 191.86" in place of "section 22.26" appearing at the end of the paragraph.

2. It is proposed to amend section 7.8(f), Customs Regulations, by substituting "191.81" in place of "22.22" at the end of the paragraph.

**PART 10—ARTICLES CONDITIONALLY FREE, SUBJECT TO A REDUCED  
RATE, ETC.**

It is proposed to amend section 10.38(f), Customs Regulations, by substituting "191.10" in place of "22.43".

**PART 113—CUSTOMS BONDS**

It is proposed to amend section 113.14(y), Customs Regulations, by substituting "191.53" in place of "22.7".

**PART 145—MAIL IMPORTATIONS**

It is proposed to amend section 145.72(e), Customs Regulations, by substituting "191.148" in place of "22.33".

**PART 158—RELIEF FROM DUTIES ON MERCHANDISE LOST, DAMAGED,  
ABANDONED, OR EXPORTED**

It is proposed to amend section 158.45(b) by substituting "Part 191" in place of "Part 22" at the end of the paragraph.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

Approved: July 30, 1982.

JOHN M. WALKER, Jr.,  
*Assistant Secretary of the Treasury.*

[Published in the Federal Register, August 8, 1982 (47 FR 37563)]

**PARALLEL REFERENCE TABLE**

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.0.....	New.
191.1.....	New.
191.2.....	New.
191.3.....	22.41.
191.4.....	22.1.

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.5 .....	22.46.
191.6 .....	22.45.
191.7 .....	22.44.
191.8 .....	New.
191.9 .....	New.
191.10 (a), (b), (c), and (d) .....	22.43.
191.10(e) .....	New.
191.11 .....	22.42.
191.12 .....	New.
191.13 .....	22.2.
191.21(a) .....	New.
191.21(a)(1) .....	22.4(k).
191.21(a)(2) .....	New.
191.21(b) .....	22.4(h).
191.21(c) .....	New.
191.21(d) .....	22.4(h).
191.21(e) .....	22.4(i).
191.22(a)(1) (i), (ii), (iii), and (iv) .....	22.4(a).
191.22(a)(1)(v) .....	22.4(b).
191.22(a) (2), (3), (4), and (5)(i) .....	22.4(a).
191.22(a)(5)(ii) .....	New.
191.22(b) .....	22.4 (b) and (c).
191.22(c) .....	22.4(f).
191.22(d) .....	22.4(e).
191.22(e) .....	22.4(d).
191.23 (a) and (b) .....	22.4(j).
191.23(c) .....	22.4(l).
191.23(d) .....	22.4(m).
191.24 .....	22.4(p).
191.25 .....	22.4(o).
191.26 .....	22.4(r).
191.31 .....	New.
191.32(a) (1), (2), and (3) .....	22.5(a).
191.32(a)(4) .....	22.4(b).
191.32(b) .....	22.5(b).
191.32(c) .....	22.5(e).
191.32(d) .....	22.5(c).
191.33 .....	New.
191.34 .....	New.
191.41 .....	New.
191.42 .....	New.
191.43 .....	New.
191.44 .....	New.
191.45 .....	New.
191.51 (a), (b), and (c) .....	22.7(a).
191.51(d) .....	New.
191.51(e) .....	New.

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.52 (a), (b), and (c).....	22.7(c)(1).
191.52(d).....	22.7(c)(2).
191.53(a).....	22.7(d)(1).
191.53 (b), (c), (d), and (e)(1).....	22.7(d)(2).
191.53(e)(2).....	22.7(d)(1).
191.53(e)(3).....	22.7(d)(3).
191.54(a).....	22.8(a).
191.54(b).....	22.8(b).
191.54(c).....	22.8(c).
191.55 (a) and (b).....	22.9(a).
191.56.....	22.11.
191.57.....	22.12.
191.61.....	22.13(a).
191.62(a)(1).....	22.13(a).
191.62(a)(2).....	22.13 (a), (c), and (e).
191.62(a)(3).....	22.13(d).
191.62(a)(4).....	22.13(a).
191.62(b).....	22.13(a).
191.62(c).....	New.
191.62(d).....	22.13(f).
191.63.....	22.13(b).
191.64.....	22.13(g).
191.65.....	22.15.
191.66(a).....	22.16(a).
191.66(b).....	New.
191.66(c).....	22.16(b).
191.66(d).....	22.16(c).
191.66(e).....	22.16(d).
191.66(f).....	New.
191.67(a).....	22.17(a).
191.67(b).....	22.13(b).
191.67(c).....	22.17(b).
191.67(d).....	22.17(c).
191.67(e)(1).....	22.17(e).
191.67(e)(2).....	22.17(d).
191.71(a).....	22.20(a).
191.71(b).....	22.20(b).
191.71(c).....	22.20(c).
191.71(d).....	22.20(d).
191.71(e).....	22.20(e).
191.71(f).....	22.20(f).
191.72.....	22.20a.
191.73(a).....	22.21(a).
191.73(b).....	22.21(b).
191.81(a).....	22.22(a).
191.81(b).....	22.22(b).
191.82(a).....	22.23(a).



## PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.82(b).....	22.24.
191.82(c).....	22.23(b).
191.82(d).....	22.23(f).
191.82(e).....	22.23(d).
191.82(f).....	22.23(a).
191.82(g).....	22.23(c).
191.82(h).....	22.24.
191.83.....	22.23(e).
191.84(a).....	22.25(a).
191.84(b).....	22.25(b).
191.84(c).....	22.25(c).
191.84(d).....	22.25(e).
191.85.....	22.26(a).
191.86 (a) and (b).....	22.26(b).
191.86(c).....	22.26(d).
191.86(d).....	22.26(c).
191.91.....	22.18(a).
191.92.....	22.18(b).
191.93 (a), (b), (c), (d), and (e).....	22.18(c).
191.93(f).....	22.18(h).
191.93 (g) and (h).....	22.18(d).
191.93 (i) and (j).....	22.18(j).
191.93(k).....	22.18(g).
191.94.....	22.18(k).
191.101.....	New.
191.102(a).....	22.19(a).
191.102(b).....	22.19(b).
191.103.....	22.19(a).
191.111.....	New.
191.112.....	New.
191.113.....	New.
191.121.....	22.26a(a).
191.122.....	New.
191.123 (a) and (b).....	22.26a(b).
191.124.....	22.26a(a) and a(c).
191.131.....	22.27(a) and 22.27(b).
191.132.....	22.28(a).
191.133 (a) and (b).....	22.28(b).
191.133(c).....	22.28(d).
191.133(d)(1).....	22.28(e).
191.133(d)(2).....	22.28(c).
191.134(a).....	22.29(a).
191.134(b).....	22.29(b).
191.135.....	22.29(c).
191.136 (a), (b), and (c).....	22.29(d).
191.136(d).....	22.29(g).
191.136(e).....	22.29(f).

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relation of sections in revised Part 191 to Part 22]

Revised section	Superseded section
191.137 .....	22.29(h).
191.138 .....	22.30 (a) and (b).
191.139 .....	22.30(a).
191.141 .....	New.
191.142 .....	New.
191.143 .....	New.
191.144 .....	New.
191.145 .....	New.
191.146 .....	New.
191.147 .....	New.
191.148 .....	22.31 and 22.35.
191.151 .....	New.
191.152 .....	New.
191.153 .....	New.
191.154 .....	New.
191.155 .....	New.
191.156 .....	New.
191.157 .....	New.
191.158 .....	New.
191.161 .....	22.36(a).
191.162 .....	22.36(b).
191.163(a) .....	22.37(a).
191.163(b)(1) .....	22.37(a).
191.163(b)(2) .....	22.37 (b) and (c).
191.163(b)(3) .....	22.37(b).
191.163 (c) and (d) .....	22.37(d).
191.163(e) .....	22.37(e).
191.164 (a), (b), and (c) .....	22.38(a).
191.164(d) .....	22.38(b).
191.165 (a), (b), and (c) .....	22.39(a).
191.165(d) .....	22.39(b).
191.166 .....	22.40.

## PARALLEL REFERENCE TABLE

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
	191.0.
	191.1.
	191.2.
22.1 .....	191.4.
22.2 .....	191.13.
22.3 .....	Deleted. 191.21 (a) and (a)(2)
22.4(a) .....	191.22 (a)(1) (i)-(iv); 191.22 (a) (2)-(5) (i); 191.22 (a) (5) (ii).

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.4(b).....	191.22 (a) (1) (v); 191.22 (b); 191.32 (a) (4).
22.4(c).....	191.22(b).
22.4(d).....	191.22(e).
22.4(e).....	191.22(d).
22.4(f).....	191.22(c).
22.4(g).....	Deleted.
22.4(h).....	191.21 (b), (d); 191.21(c).
22.4(i).....	191.21(e).
22.4(j).....	191.23 (a), (b).
22.4(k).....	191.21(a) (1); 191.21(a) (2).
22.4(l).....	191.23(c).
22.4(m).....	191.23(d).
22.4(n).....	Deleted.
22.4(o).....	191.25.
22.4(p).....	191.24.
22.4(q).....	Deleted.
22.4(r).....	191.26, 191.31.
22.5(a).....	191.32(a) (1)-(3).
22.5(b).....	191.32(b).
22.5(c).....	191.32(d).
22.5(d).....	Deleted.
22.5(e).....	191.32(c); 191.33; 191.34.
22.6(a)-(g).....	Deleted.
22.6(g-l).....	Deleted.
22.6 (h) and (i).....	Deleted.
22.7(a).....	191.51 (a)-(c); 191.51 (d) and (e).
22.7(b).....	Deleted.
22.7(c)(1).....	191.52 (a)-(c).
22.7(c)(2).....	191.52(d).
22.7(d)(1).....	191.53 (a), (e) (2).
22.7(d)(2).....	191.53 (b)-(d); (e)(1).
22.7(d)(3).....	191.53(e)(3).
22.8 (a)-(c).....	191.54 (a)-(c).
22.9(a).....	191.55 (a)-(b).
22.9(b).....	Deleted.
22.10.....	Deleted.
22.11.....	191.56.
22.12.....	191.57.
22.13(a).....	191.61, 191.62(a) (1)-(2) and (4); 191.62(b).
22.13(b).....	191.63, 191.67(b).
22.13 (c) and (e).....	191.62(a)(2).
22.13(d).....	191.62(a)(3); 191.62(c).
22.13(f).....	191.62(d).
22.13(g).....	191.64.
22.15.....	191.65.
22.16(a).....	191.66(a); 191.66(b).
22.16(b).....	191.66(c).

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.16(c) .....	191.66(d).
22.16(d) .....	191.66(e), 191.66(f).
22.17(a) .....	191.67(a).
22.17(b) .....	191.67(c).
22.17(c) .....	191.67(d).
22.17(d) .....	191.67(e)(2).
22.17(e) .....	191.67(e)(1).
22.18(a) .....	191.91.
22.18(b) .....	191.92.
22.18(c) .....	191.93 (a)–(e).
22.18(d) .....	191.93 (g) and (h).
22.18(e) .....	Deleted.
22.18(g) .....	191.93(k).
22.18(h) .....	191.93(f).
22.18(j) .....	191.93 (i) and (j).
22.18(k) .....	191.94; 191.101.
22.19(a) .....	191.102(a), 191.103.
22.19(b) .....	191.102(b); 191.111; 191.112; 191.113.
22.20 (a)–(d) .....	191.71 (a)–(d).
22.20(e) .....	191.71(e).
22.20(f) .....	191.71(f).
22.20a .....	191.72.
22.21 (a)–(b) .....	191.73 (a)–(b).
22.22 (a) and (b) .....	191.81 (a) and (b).
22.23(a) .....	191.82 (a), (f).
22.23(b) .....	191.82(c).
22.23(c) .....	191.82(g).
22.23(d) .....	191.82(e).
22.23(e) .....	191.83.
22.23(f) .....	191.82(d).
22.24 .....	191.82 (b) and (h).
22.25 (a)–(c) and (e) .....	191.84 (a)–(d).
22.25(d) .....	Deleted.
22.26(a) .....	191.85.
22.26(b) .....	191.86 (a) and (b).
22.26(c) .....	191.86(d).
22.26(d) .....	191.86(c).
22.26a(a) .....	191.121; 191.122.
22.26a(b) .....	191.123 (a) and (b).
22.26 a(a), a(c) .....	191.124.
22.27 (a) and (b) .....	191.131.
22.28(a) .....	191.132.
22.28(b) .....	191.133 (a) and (b).
22.28(c) .....	191.133(d)(2).
22.28(d) .....	191.133(c).
22.28(e) .....	191.133(d)(1).

## PARALLEL REFERENCE TABLE—Continued

[This table shows the relationship of sections in Part 22 to revised Part 191]

Old section	New section
22.29 (a) and (b) .....	191.134 (a) and (b).
22.29(c) .....	191.135.
22.29(d) .....	191.136 (a)(c).
22.29(e) .....	Deleted.
22.29(f) .....	191.136(e).
22.29(g) .....	191.136(d).
22.29(h) .....	191.137.
22.30 (a) and (b) .....	191.138.
22.30(a) .....	191.139; 191.141; 191.142; 191.143; 191.144; 191.145; 191.146; 191.147.
22.31-22.35 .....	191.148; 191.151-191.158.
22.36(a) .....	191.161.
22.36(b) .....	191.162.
22.37(a) .....	191.163(a).
22.37(a) .....	191.163(b)(1).
22.37 (b), (c) .....	191.163(b)(2).
22.37(b) .....	191.163(b)(3).
22.37(d) .....	191.163 (c) and (d).
22.37(e) .....	191.163(e).
22.38(a) .....	191.164 (a)-(c).
22.38(b) .....	191.164(d).
22.39(a) .....	191.165 (a)-(c).
22.39(b) .....	191.165(d).
22.40 .....	191.166.
22.41 .....	191.3.
22.42 .....	191.11; 191.12.
22.43 .....	191.10 (a)-(d); 191.10(e).
22.44 .....	191.7; 191.8; 191.9.
22.45 .....	191.6.
22.46 .....	191.5; 191.41-191.45.

# International Trade Commission Notices

*Investigations by the U.S. International Trade Commission*

DEPARTMENT OF THE TREASURY, AUGUST 18, 1982

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,  
*Commissioner of Customs.*

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*Notice of termination of Investigations Nos. 731-TA-97 Through  
731-TA-99 (Preliminary) and 701-TA-186 (Preliminary)*

AGENCY: U.S. International Trade Commission.

ACTION: Termination of preliminary antidumping and countervailing duty investigations and cancellation of conference.

FOR FURTHER INFORMATION CONTACT: Mr. Bruce Cates, Investigator, Telephone No. 202-523-0369.

SUPPLEMENTARY INFORMATION: On July 22, 1982, following receipt of a petition filed on behalf of CF & I Steel Corporation, Pueblo, Colorado, the Commission instituted antidumping investigations Nos. 731-TA-97 through 731-TA-99 (Preliminary) and countervailing duty investigation No. 701-TA-186 (Preliminary), steel rails from the Federal Republic of Germany, France, and the United Kingdom and steel rails from the European Community. The purpose of the investigations was to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry is materially retarded by reason of allegedly subsidized imports from the European Community or imports which are alleged to be sold at less than fair value from the Federal Republic of Germany, France, and the United Kingdom of steel rails provided for in items 610.20 and 610.21 of the Tariff Schedules of the United States (1982).

On August 6, 1982, the Commission received a copy of a letter on behalf of the petitioner to the Department of Commerce withdraw-

ing the petition for the subject investigations. On August 9, 1982, the Commission received a letter from the Department of Commerce stating that it considers the petitions withdrawn and does not intend to take further action in these cases. Therefore, pursuant to its authority under section 207.13 of the Commission's Rules of Practice and Procedure, the Commission's investigations concerning these products from the Federal Republic of Germany, France, the United Kingdom and the European Community are hereby terminated and the conference scheduled for August 13, 1982 is cancelled.

Issued: August 11, 1982.

KENNETH R. MASON,  
*Secretary.*

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Investigation No. 731-TA-101 (Preliminary)

GREIGE POLYESTER/COTTON PRINTCLOTH FROM THE PEOPLE'S  
REPUBLIC OF CHINA

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary antidumping investigation and scheduling of a conference to be held in connection with the investigation.

EFFECTIVE DATE: August 5, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of investigation No. 731-TA-101 (Preliminary) under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from the People's Republic of China of unbleached and uncolored printcloth fabric (other than 80 x 80 type) in chief value of cotton, containing polyester, and provided for in items 326.26 through 326.40 of the Tariff Schedules of the United States, which is alleged to be sold in the United States at less than fair value. The appropriate statistical suffixes are 32 and 92. For purposes of this investigation the term "printcloth" means plain-woven fabric, not napped, not fancy or figured, of singles yarn, not combed, of average yarn number 26 through 40, weighing not more than 6 ounces per square yard, having a total thread count of more than 85 yarns per square inch and with the total count of the warp yarns per inch and the total count of the filling yarns per inch each less than 62 percent of the total count of the warp and filling yarns per square inch.

FOR FURTHER INFORMATION CONTACT: Ms. Judith Zeck (202-523-0339), Office of Investigations, U.S. International Trade Commission.

#### SUPPLEMENTARY INFORMATION:

*Background.*—This investigation is being instituted in response to a petition filed August 5, 1982, on behalf of the American Textile Manufacturers Institute, Inc., and 8 of its member companies who are producers of polyester/cotton printcloth. Copies of the petition are available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must make its determination in this investigation within 45 days after the date of the filing of the petition or by September 20, 1982 (19 CFR § 207.17). Persons wishing to participate in this investigation as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Chairman, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

*Service of documents.*—The Secretary will compile a service list from the entries of appearance filed in this investigation. Any party submitting a document in connection with the investigation shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigation. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of the investigation must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

*Written submissions.*—Any person may submit to the Commission on or before September 1, 1982, a written statement of information pertinent to the subject matter of this investigation (19 CFR § 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.



*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 9:30 a.m., on August 27, 1982, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Ms. Vera Libeau, telephone 202-523-0368, not later than August 25, 1982, to arrange for their appearance. Parties in support of the imposition of antidumping duties in this investigation and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of this investigation and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, 47 F.R. 6182, February 10, 1982), and part 201, subparts A through E (19 CFR part 201, 47 F.R. 6182, February 10, 1982). Further information concerning the conduct of the conference will be provided by Ms. Vera Libeau.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: August 11, 1982.

KENNETH R. MASON,  
*Secretary.*

In the Matter of  
CERTAIN SILICA-COATED LEAD  
CHROMATE PIGMENTS

} Investigation No. 337-TA-120

*Notice of Amendment of Notice of Investigation*

AGENCY: U.S. International Trade Commission.

ACTION: Amendment of notice of investigation.

SUMMARY: The Commission has granted a motion to amend the notice of investigation in the above-captioned investigation to add the following companies, alleged to be in violation of section 337, as respondents, and as parties upon which all papers are to be served: Nichimen Corporation, 11-1 Nikonbashi 3 #Chome, Chuo-Ku, Tokyo 103, Japan

Nichimen America, Inc., 1200 Travis 630, Houston, Texas 77002

SUPPLEMENTARY INFORMATION: This investigation is being conducted under section 337 of the Tariff Act of 1930, 19 U.S.C. § 1337, and concerns alleged unfair trade practices in the importation into and sale in the United States of certain silica-coated lead chromate pigments by reason of alleged infringement of U.S. Letters Patent 3,639,133.

The motion to amend the notice of investigation (Motion No. 120-3) was not opposed by any of the parties and was supported by

the Commission investigative attorney. The presiding officer has recommended (Order No. 5) that the motion be granted.

Copies of the Commission's action and order and all other non-confidential documents filed in connection with this investigation are available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161.

FOR FURTHER INFORMATION CONTACT: Gracia M. Berg, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-1626.

By order of the Commission.

Issued: August 9, 1982.

KENNETH R. MASON,  
*Secretary.*

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(19 CFR 207.40)

Investigation No. 701-TA-183 (Final)

POTASSIUM PERMANGANATE FROM SPAIN

Notice of Termination of Investigation

AGENCY: U.S. International Trade Commission.

ACTION: In view of the withdrawal by the petitioner of the petition upon the basis of which investigation No. 701-TA-183 (Final) was initiated, the Commission hereby terminates such investigation pursuant to section 704(a) of the Tariff Act of 1930.

EFFECTIVE DATE: August 6, 1982.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Johnson, Office of Industries, telephone number (202) 523-0127.

SUPPLEMENTARY INFORMATION: By notice issued July 14, 1982, and published in the Federal Register (47 F.R. 31637 (July 21, 1982)), the Commission instituted the subject investigation to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of subsidized imports of potassium permanganate from Spain. A public hearing scheduled for August 12, 1982 at the International Trade Commission Building will not be held.

By order of the Commission.

Issued: August 6, 1982.

KENNETH R. MASON,  
*Secretary.*

In the Matter of CERTAIN GROOVED WOODEN HANDLE KITCHEN UTENSILS AND GADGETS	}	Investigation No. 337-TA-125
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*Notice of Investigation*

AGENCY: U.S. International Trade Commission.

ACTION: Institution of investigation pursuant to 19 U.S.C. 1337.

SUMMARY: Notice is hereby given that a complaint was filed with the U.S. International Trade Commission on July 7, 1982, under section 337 of the Tariff Act of 1930 (19 U.S.C. 1337), on behalf of Bonny Products, Inc., 1175 West Broadway, Hewlett, New York 11557. The complaint alleges unfair methods of competition and unfair acts in the importation of certain grooved wooden handle kitchen utensils and gadgets into the United States, or in their sale, by reason of alleged (1) misappropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement. The complaint further alleges that the effect or tendency of the unfair methods of competition and unfair acts is to destroy or substantially injure an industry, efficiently and economically operated, in the United States.

The complainant requests the Commission to institute an investigation; during the investigation, to conduct expedited temporary relief proceedings and to issue (1) a temporary exclusion order prohibiting importation of the articles in question into the United States, except under bond, and (2) a temporary cease and desist order; and, after a full investigation, to issue (1) a permanent exclusion order and (2) a permanent cease and desist order.

AUTHORITY: The authority for institution of this investigation is contained in section 337 of the Tariff Act of 1930 and in section 210.12 of the Commission's Rules of Practice and Procedure (19 CFR 210.12).

SCOPE OF INVESTIGATION: Having considered the complaint, the U.S. International Trade Commission, on August 3, 1982, Ordered that—

(1) Pursuant to subsection (b) of section 337 of the Tariff Act of 1930, an investigation be instituted to determine whether there is reason to believe that there is a violation and whether there is a violation of subsection (a) of section 337 in the unlawful importation of certain grooved wooden handle kitchen utensils and gadgets into the United States, or in their sale, by reason of alleged (1) mis-

appropriation of trade dress, (2) false representation of source, and (3) common law trademark infringement, the effect or tendency of which is to destroy or substantially injure an industry, efficiently and economically operated, in the United States,

(2) For the purpose of the investigation so instituted, the following are hereby named as parties upon which this notice of investigation shall be served:

(a) The complainant is: Bonny Products, Inc., 1175 West Broadway, Hewlett, New York 11557.

(b) The respondents are the following companies, alleged to be in violation of section 337, and are the parties upon which the complaint is to be served:

Four Star International Trading Co., Fuang Lien Bldg.—5th Floor,  
111 Chung Shan N. Road Sec. 2, Taipei, Taiwan  
G&S Metal Product, Co., Inc., 3330 East 79th Street, Cleveland,  
Ohio 44127

(c) Juan Cockburn, Esq., Unfair Import Investigations Division, U.S. International Trade Commission, 701 E Street NW., Room 128, Washington, D.C. 20436, shall be the Commission investigative attorney, a party to this investigation, and

(3) For the investigation so instituted, Donald K. Duvall, Chief Administrative Law Judge, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436, shall designate the presiding officer. The Commission notes that complainant has requested that, in order for temporary relief to be effective, a "recommended determination" as to whether there is a reason to believe there is a violation of section 337 be issued within one-hundred (100) days from the date of publication of this notice in the Federal Register. In light of this request and the allegations contained in the complaint, the Commission requests that the presiding officer give expeditious consideration to the request for temporary relief. Pursuant to Commission rule 210.30(c), discovery should be allowed in connection with the temporary relief phase of the investigation only to the extent necessary to weigh the standards that are applicable in determining whether temporary relief should be granted.

Responses conforming to the requirements of section 210.21(b) of the Commission's Rules of Practice and Procedure (19 CFR § 210.21(b)) must be submitted by each named respondent. Such responses will be considered by the Commission if received not later than 20 days after the date of service of the complaint. Extensions of time for submitting a response will not be granted unless good cause therefor is shown.

Failure of a respondent to file a timely response to each allegation in the complaint and in this notice may be deemed to constitute a waiver of the right to appear and contest the allegations of the complaint and this notice, and to authorize the presiding officer and the Commission, without further notice to the respondent, to find the facts to be as alleged in the complaint and this notice

and to enter both an initial determination and a final determination containing such findings.

The complaint, except for any confidential information contained therein or appended thereto, is available for inspection during official business hours (8:45 a.m. to 5:15 p.m.) in the Office of the Secretary, U.S. International Trade Commission, 701 E Street NW., Room 156, Washington, D.C. 20436, telephone 202-523-0176.

FOR FURTHER INFORMATION CONTACT: Juan S. Cockburn, Esq., Unfair Import Investigations Division, Room 132, U.S. International Trade Commission, telephone 202-523-1272.

By order of the Commission.

Issued: August 5, 1982.

KENNETH R. MASON,  
*Secretary.*

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Investigations Nos. 701-TA-187 and 731-TA-100 (Preliminary)

CERTAIN TOOL STEELS FROM BRAZIL AND THE FEDERAL REPUBLIC  
OF GERMANY

AGENCY: United States International Trade Commission.

ACTION: Institution of preliminary countervailing duty and anti-dumping investigations and scheduling of a conference to be held in connection with the investigations.

EFFECTIVE DATE: July 30, 1982.

SUMMARY: The United States International Trade Commission hereby gives notice of the institution of an investigation under section 703(a) of the Tariff Act of 1930 (19 U.S.C. § 1671b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from Brazil of tool steel bar and wire rod, provided for in items 606.93, 606.94, 606.95, 607.28, 607.34, 607.46, and 607.54 of the Tariff Schedules of the United States, which are alleged to be subsidized by the Government of Brazil (investigation No. 701-TA-187 (Preliminary)); and institution of an investigation under section 733(a) of the Tariff Act of 1930 (19 U.S.C. § 1673b(a)) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of such imports from the Federal Republic of Germany which are alleged to be sold in the United States at less than fair value (investigation No. 731-TA-100 (Preliminary)).

**FOR FURTHER INFORMATION CONTACT:** Mr. Stephen Vastagh (202-523-0283), Office of Investigations, U.S. International Trade Commission.

**SUPPLEMENTARY INFORMATION:**

*Background.*—These investigations are being instituted in response to petitions filed July 30, 1982, in behalf of 9 U.S. producers of tool steel bar and rod and the United Steelworkers of America. Copies of the petitions are available for public inspection in the Office of the Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. The Commission must make its determinations in these investigations within 45 days after the date of the filing of the petitions or by September 13, 1982 (19 CFR § 207.17). Persons wishing to participate in these investigations as parties must file an entry of appearance with the Secretary to the Commission, as provided for in section 201.11 of the Commission's Rules of Practice and Procedure (19 CFR § 201.11), not later than seven (7) days after the publication of this notice in the Federal Register. Any entry of appearance filed after this date will be referred to the Director of Operations, who shall determine whether to accept the late entry for good cause shown by the person desiring to file the notice.

*Service of documents.*—The Secretary will compile a service list from the entries of appearance filed in these investigations. Any party submitting a document in connection with the investigations shall, in addition to complying with section 201.8 of the Commission's rules (19 CFR § 201.8), serve a copy of each such document on all other parties to the investigations. Such service shall conform with the requirements set forth in section 201.16(b) of the rules (19 CFR § 201.16(b)).

In addition to the foregoing, each document filed with the Commission in the course of the investigations must include a certificate of service setting forth the manner and date of such service. This certificate will be deemed proof of service of the document. Documents not accompanied by a certificate of service will not be accepted by the Secretary.

*Written submissions.*—Any person may submit to the Commission on or before August 26, 1982, a written statement of information pertinent to the subject matter of these investigations (19 CFR § 207.15). A signed original and fourteen (14) copies of such statements must be submitted (19 CFR § 201.8).

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately, and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's rules (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

*Conference.*—The Director of Operations of the Commission has scheduled a conference in connection with these investigations for 9:30 a.m., on August 23, 1982, at the U.S. International Trade Commission Building, 701 E Street NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for the investigation, Mr. William Fry, telephone 202-523-0301, not later than August 16, 1982, to arrange for their appearance. Parties in support of the imposition of countervailing and/or antidumping duties in these investigations and parties in opposition to the imposition of such duties will each be collectively allocated one hour within which to make an oral presentation at the conference.

For further information concerning the conduct of these investigations and rules of general application, consult the Commission's Rules of Practice and Procedure, part 207, subparts A and B (19 CFR part 207, 47 F.R. 6182, February 10, 1982), and part 201, subparts A through E (19 CFR part 201, 47 F.R. 6182, February 10, 1982). Further information concerning the conduct of the conference will be provided by Mr. Fry.

This notice is published pursuant to section 207.12 of the Commission's rules (19 CFR § 207.12).

Issued: August 5, 1982.

KENNETH R. MASON,  
*Secretary.*

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In the Matter of CERTAIN GROOVED WOODEN HANDLE KITCHEN UTENSILS AND GADGETS	} Investigation No. 337-TA-125
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*Order*

Pursuant to my authority as Chief Administrative Law Judge of this Commission, I hereby designate Administrative Law Judge Janet D. Saxon as Presiding Officer in this investigation.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the FEDERAL REGISTER.

Issued: August 5, 1982.

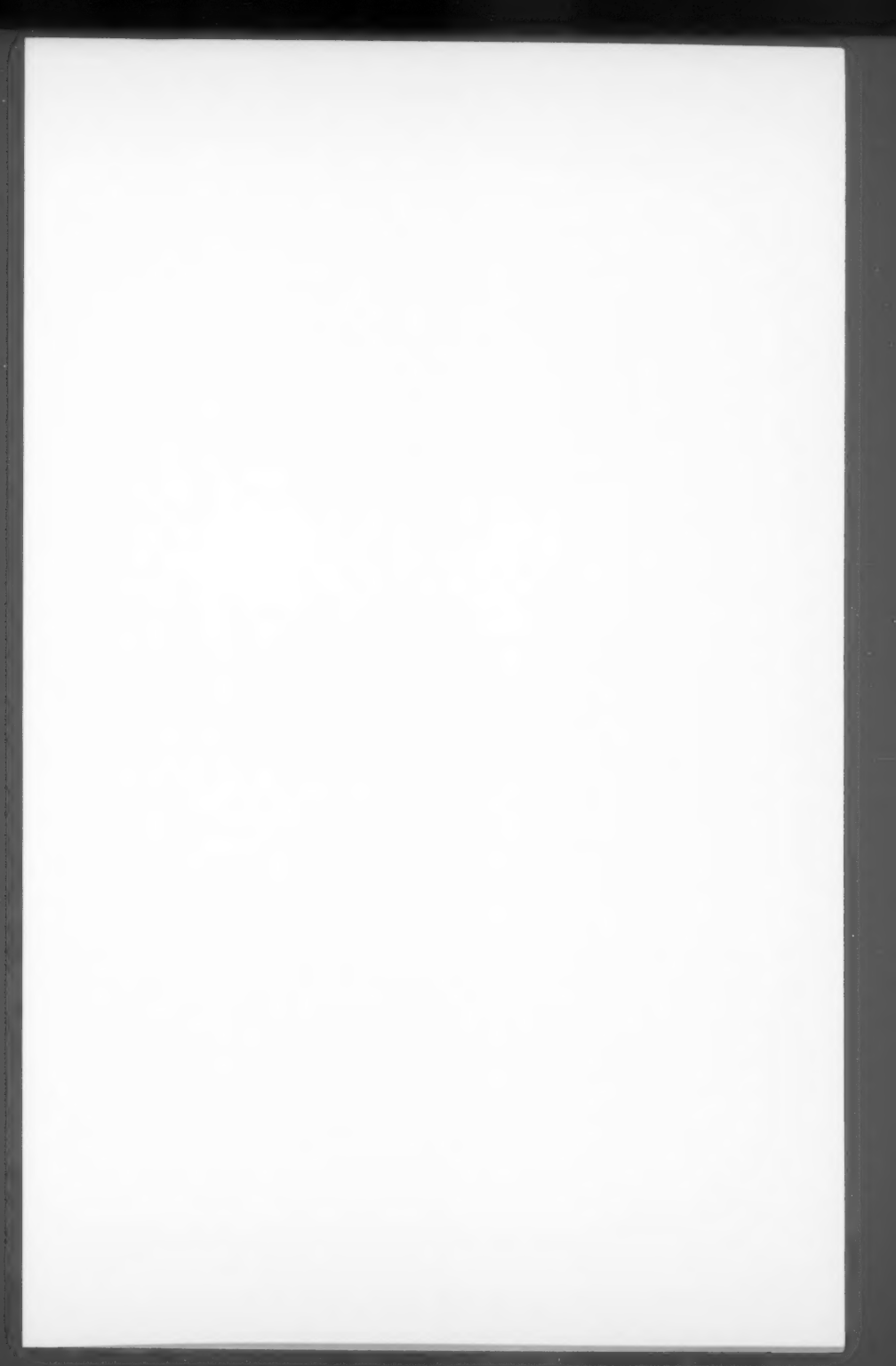
DONALD K. DUVALL,  
*Chief Administrative Law Judge.*

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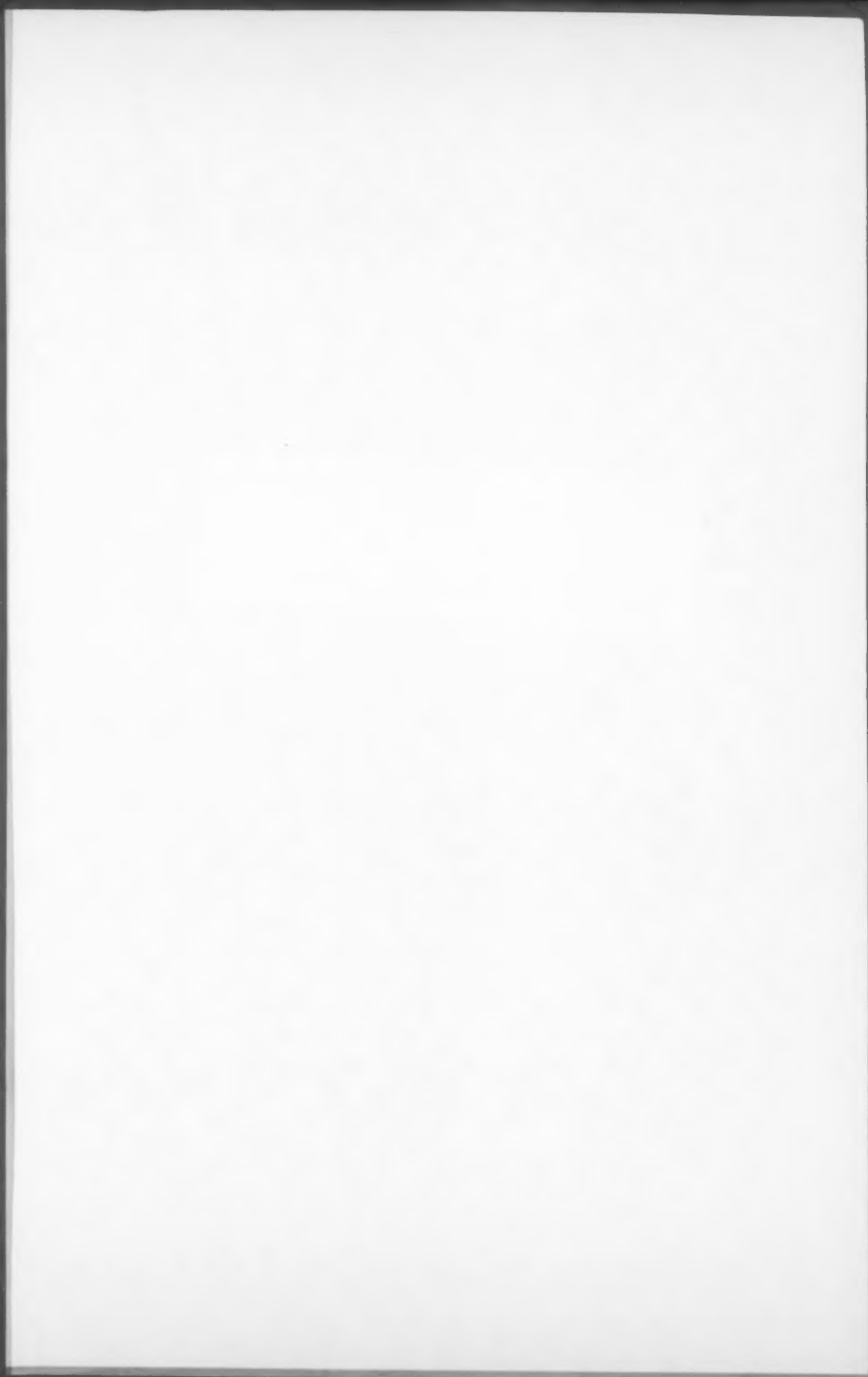
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